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ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY
ARISING FROM THE USE OF ASBESTOS IN ONTARIO

CHAIRMAN: J. STEFAN DUPRE, Ph.D.

COMMISSIONERS: J. FRASER MUSTARD, M.D.
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APPEARANCES:


Mr. E. Cauchi

Mr. T. Lederer

Government of Ontario

180 Dundas Street
Toronto, Ontario
Thursday,
August 12, 1982

VOLUME 56



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ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY

ARISING FROM THE USE OF ASBESTOS IN ONTARIO

VOLUME 56

INDEX OF WITNESSES:

WILLIAM DOUGLAS PEARCE	Examination-in-chief (cont'd.)	Page 3
	Cross-examination (Cauchi)	Page 38
	Examination	Page 97

INDEX OF EXHIBITS:

EXHIBIT # 7, PHASE 4	Statistics as of March 26/82	Page 19
EXHIBIT # 8, PHASE 4	Three sheets of statistics further to Barth Report, as at August 10/82, December 31/80 and December 31/79	Page 19

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THE FURTHER PROCEEDINGS IN THIS INQUIRY
RESUMED PURSUANT TO ADJOURNMENT

APPEARANCES AS HERETOFORE NOTED

DR. DUPRE: May we come to order, please?

This morning will be resumed the testimony of Mr.
William Pearce, who is already sworn.

Sir, may I just ask you, please, to take your place
at the witness table?

WILLIAM DOUGLAS PEARCE, PREVIOUSLY SWORN, RESUMES THE STAND

EXAMINATION-IN-CHIEF BY MR. LASKIN, CONTINUED

Q. All right, Mr. Pearce, when we last adjourned
on July 19th, we were trying to understand the special rehabilitation
assistance program at Johns-Manville through, in part, Professor
Barth's table nineteen, which as you know is at page eight point
nine and page eight point ten, and I wonder if we may return to
that table by way of background and let me ask you some further
questions and seek your assistance in clarifying some of the points
surrounding the program.

Now, the last time you were before the Commission
giving evidence, we talked about the eligibility criteria to get

Q. (cont'd.) into this program, and I just want to make sure that we are all clear as to what those criteria were.

Now, as I understand your evidence last time, there were three criteria, and they were, number one, that you must have been employed in the transite pipe or erection and repair departments at Johns-Manville. Number two, that you had to be employed there as at May, 1976, and number three, that you had to have been diagnosed as an asbestotic or having asbestos fiber dust effect.

Do I accurately state the three criteria for entry to the program?

A. I would like, if possible, to clarify the reference to the date, May 1976.

Q. All right.

A. That date, as I believe I gave in my earlier testimony, was to convey the date the program was announced to be in effect for workers at the Johns-Manville plant, that statement being made by the minister of labour.

The actual perception insofar as eligibility is concerned is that any of the workers who were asbestotic or AFDE and had been confirmed at risk would be acceptable into the program at the date of their individual application for entry to the program.

I would really like to clarify that because I feel within myself that with respect to the Commission that I may have conveyed that the 13th of May, 1976, on that particular date anybody, you know, could have admission to the program.

Am I making myself clear, counsel?

Q. Let me see if I understand that.

Is what you are telling me that a person applying to be on the program must have had, must have been diagnosed as asbestotic or having an asbestos fiber dust effect?

A. Correct.

5 Q. And must have been in the transite pipe or erection and repair department at the time of application to get on the program?

A. That is correct.

10 Q. And that date may have been December of 1976, it may have been October of 1977. You look at the date when the application was made to get on the program?

A. That is correct.

Q. Then...

DR. DUPRE: Can I just ask one thing to make sure I haven't lost something, counsel?

15 The way you restated it, it sounded to me like there were two criteria - one, that you were diagnosed as an asbestotic or an AFDE, and two, that you were working in the transite pipe or erection division at the time of application.

MR. LASKIN: Q. Is that your evidence, Mr. Pearce?

THE WITNESS: A. That is correct.

DR. DUPRE: You had three...?

20 MR. LASKIN: Yes, I started out with three from Mr. Pearce's last testimony, and I think Mr. Pearce has now corrected...

DR. DUPRE: Oh, the third one that you had put in was that date?

MR. LASKIN: Was the date.

25 DR. DUPRE: Right. Okay. The date is simply the date when the program was announced. Yes.

MR. LASKIN: Q. Then were the two criteria then that the chairman has just articulated, and I think we now appreciate are the criteria, were those two criteria made known to the workers at Johns-Manville and to the public generally at the time of the announcement of the program?

30 THE WITNESS: A. This was made known to the workers

A. (cont'd.) who were identified on our roll at the time of the team interviews.

5 Q. All right. So that when the program was announced, was the first thing that you did to identify as best you could all the workers at Johns-Manville who were asbestotic or had AFDE?

A. We had set up at the announcement of the program, we had set up a nominal asbestos workers roll, who were either asbestotic or AFDE.

10 Q. Okay. Were...go on.

A. Sorry. At that particular time we had not, however, determined the precise risk areas in the plant because we were awaiting receipt of the dust readings from the ministry.

15 Q. And did your interviews of these people commence before you had determined the precise risk areas?

A. Yes.

Q. When did you determine the precise risk areas?

A. About the middle of January, 1977.

20 Q. So it was at that time that the program became limited to employees in transite pipe or erection and repair?

A. Correct.

Q. And if we look at the figure eighty on table nineteen, I take it that is all of the persons on your asbestos roll which you diagnosed as being asbestotic or having AFDE?

A. That is correct.

25 Q. Would all of those persons have been interviewed between May, 1976 and January, 1977?

A. No. We carried through team interviews until October of 1977.

Q. So that some of them would have been interviewed beforehand and some of them would have been interviewed afterwards?

30 A. That is correct.

Q. What...just to take a case which may or may not

5 Q. (cont'd.) have been hypothetical...but suppose you interviewed someone in October of 1976, who was diagnosed as asbestotic but happened to be employed in an area other than transite pipe or erection and repair, what would his status have been at that time?

A. He was interviewed on what date, did you say?

10 Q. October, 1976. Before you determined the risk areas.

A. At that particular stage of interview, we made it very clear to the worker concerned that whereas his name did appear on the roll - he was either asbestotic or AFDE - that we would in essence have to put him on hold, pending the defining of the precise risk area.

15 Q. I see. So that once the risk area was defined, I take it, that then determined who would be eligible for the program?

A. That is correct.

20 Q. Having made the determination of the risk area, is the figure thirty-two the accurate figure on table nineteen to tell us who were eligible for the program in the sense of meeting the two criteria that the chairman articulated?

A. Yes, that is correct.

DR. DUPRE: Counsel, that is the number thirty-two that appears under B in table nineteen on page eight-ten?

25 MR. LASKIN: Q. Is that correct, Mr. Pearce?

THE WITNESS: A. That is correct.

Q. The figure forty-eight, also in table D of table nineteen at page eight point ten, I take it are the asbestotics and persons with AFDE who were not in the areas at risk?

A. That is correct.

30 Q. Okay.

I take it consistent with your evidence that if an

5 Q. (cont'd.) employee was not in one of the risk areas at January, 1977, but say was transferred into that area afterwards, and was also asbestotic, he would be eligible for the program?

A. He is either asbestotic or AFDE and had transferred into the designated risk area, he would be deemed eligible for the program.

10 Q. Good. Okay.

Then can we come back to table nineteen (c) for just a moment, on page eight point nine?

A. Table...?

Q. Table (c). Have you got that, on page eight point nine?

15 A. Mmm-hmm.

Q. Number one - total electing to participate, eighteen. And I take it that is eighteen of the thirty-two who were actually eligible for the program in the sense of meeting both criteria?

A. That is correct.

20 Q. Okay.

Then I think what caused us some confusion last time, number two - total electing not to participate, thirty-six - and I think our confusion was that there seems to have been, in the way the table is framed, a conscious election not to participate - thirty-six - when in fact only thirty-two, strictly speaking, were eligible for the program. Can you help us with that?

25 A. Actually, as referred to on table (c)...I'm sorry, table nineteen, section (c), under the heading 'participation versus nonparticipation'...I had shown there as thirty-six workers as a total electing not to participate. By using the terminology 'electing', I wanted to place emphasis on the fact that they did indeed have a choice, that this was a voluntary program.

30 So these thirty-six people chose, rather, to say 'no,

A. (cont'd.) I do not wish to participate'.

5 This again, to further provide an explanation, could
in a sense be married with section (e) under the heading 'acceptance
and refusals'. The total number who did not qualify for the program
is given as forty-eight, and of that forty-eight, twenty-two had
said to us in any event, 'well, I choose not to', or 'I choose not
to elect to participate in your program', as in the case of
thirty-two who qualified - fourteen of the thirty-two said 'I don't
10 want your program'. Fourteen and twenty-two make thirty-six,
as is shown in table...sorry, subsection (c). That was my intent
there.

15 Q. I see. So is what you are telling me that the
twenty-two in table (e) who refused the program outright...and I
take it those twenty-two are twenty-two of the forty-eight who
didn't qualify?

A. That is correct.

20 Q. That the twenty-two said to you or your team
words to the effect, 'I don't care whether I'm eligible for the
program or not, I don't want the program'?

25 A. Just bear in mind again, a time lapse took place
here because some of these would be included in the early team
interviews that commenced in June, so naturally when we had made
a commitment to them to place them in a category as what I termed
'on hold', we had, of course, to extend the courtesy of returning
to them at a much later date when the risk areas had been so
designated and say, well, look, evidence shows now that you don't
qualify inasmuch as you are not at risk.

30 So a group of these people included there would have
said to us, well, it doesn't make all that much difference, I have
chosen not to elect to participate in any event.

This isn't a situation here where we are sitting
down at one precise time and dealing with a precise martyr.

A. (cont'd.) There were time lags and carry-overs from year to year. We had many reversals of opinions as well.

5 Q. I suppose the other side of the question is, Mr. Pearce, that if those twenty-two persons had said to you 'I would like to participate in the program', you would have been obliged to say to them, well, I'm sorry, you are not in a risk area and you can't participate?

10 A. That's right. And at the same time to inform them that they had a right to appeal if an adverse decision was to be rendered.

Q. Appeal to whom?

A. Through the appeal system.

15 Q. That was a decision that could have been appealed through the normal channels of the compensation board?

A. Yes, indeed. Yes, indeed. Those rights were extended to all participants in the program.

Q. Did anyone appeal?

A. Yes, we have had appeals.

Q. Of refusals to be permitted on the program?

20 A. Yes.

Q. All right. The twenty...just staying with the figure twenty-two for a moment, which is a subset of the figure forty-eight...are we to draw the inference that the remaining twenty-six of the forty-eight would have wanted to participate in the program but could not because they were not in the risk areas?

25 A. The best way that I can respond to that question is that this report of 1980 was to specify clearly that forty-eight just did not qualify, and of that forty-eight, twenty-two had said 'I don't want your program in any event'.

Q. What about the other twenty-six?

30 A. The other twenty...?

Q. Six. In the sense that twenty-six plus twenty-two

Q. (cont'd.) is forty-eight.

5 A. Well, I don't know of any of these employees who did not remain with the company.

Q. I suppose the question is, do you recall whether any of those twenty-six had indicated to you or your team, 'I would like to go on this program', and you were unfortunately obliged to tell them, I'm sorry, we can't take you on the program because you are not in the risk area?

10 A. I can't recall of any individual case in that particular respect.

Q. You cannot?

A. I cannot.

Q. Would you have recorded that information at the time of your interview?

15 A. This certainly...any recordings? Yes, we kept records of interviews.

Q. Could you, through Mr. Lederer, let me know what the answer to that question is - whether there were any of those twenty-six who asked to be on the program but were refused because they didn't...

20 A. Yes, that information can be provided.

DR. DUPRE: And I wonder while we are on that, counsel, if it would be possible to find out how many of those twenty-six would have appealed?

25 MR. LASKIN: Q. Could we have that information, Mr. Pearce?

THE WITNESS: A. That will be provided as well.

Q. And the results of the appeals?

A. Yes.

30 DR. DUPRE: Just to make sure I understand one other thing, Mr. Pearce, you did mention that to your recollection there had been appeals. Would I be correct in surmising that any and all

5 DR. DUPRE: (contd.) appeals would have been from among that population of twenty-six? I would imagine so offhand, counsel. It seems reasonable to me. Does that make sense to you?

MR. LASKIN: Yes.

DR. DUPRE: Okay. So that will cover all possible appeals as having to be found from among those twenty-six.

10 MR. LASKIN: Q. Have you followed the eighteen who did elect to participate in the program?

THE WITNESS: A. Yes, indeed.

Q. Can you tell us something about their status, what has happened to them?

15 A. Well, currently we have six on formal training with an accredited insitution of learning in respect to either academic upgrading or skill development programs.

We have five cases that are active with me, where I am still routinely meeting with these five to establish objective vocational goals.

Q. These people are out of employment?

A. That's correct.

20 Q. And not on training?

A. No, but they are receiving the benefit of rehabilitation allowances through the program.

Q. I see.

A. And we have four on medical treatment...six, five is eleven...four...

25 Q. Would that be in hospitals?

A. Yes.

Q. These people are bedridden?

30 A. Yes. And three cases have since come up for retirement, two of the three cases have been what we termed inactive now by virtue of the fact that they have attained the age of sixty-five. We carried these, this group of sixty-five, on benefits

5 A. (cont'd.) until such time as they qualified for old age security and Canada pension. We detected that there was a lag there, so we continued on until everything was married into one.

The remaining one has reached a level of wage in his newfound employment, for which he received a benefit of training under auspices. Therefore, he is deemed to be closed as fully rehabilitated and gainfully employed at a new skill for which he received the benefit of training.

10 I think that accounts for eighteen.

DR. DUPRE: It does account for eighteen, but that last figure of three, two, as you put it, were retired inactive in the sense that they were continuing to receive a rehabilitation allowance as they bridged to the Canada Pension Plan, correct?

15 THE WITNESS: And Old Age Security.

DR. DUPRE: Yes. But this other one, I thought at one stage I heard you say was deemed to be rehabilitated and re-employed. How can he be retired?

20 THE WITNESS: No, no. What I mean to say, Mr. Chairman, was for our purpose, for our purpose the file had been retired. The service was complete on the file.

DR. DUPRE: Oh, okay. Good. Okay.

THE WITNESS: We deemed him to be rehabilitated, gainfully employed in the field for which he received the benefit of formal training.

25 DR. DUPRE: Okay. Thank you, Mr. Pearce.

MR. LASKIN: Q. He, then, I take it, is the one person of the eighteen electing to participate who in fact gained other employment, from listening to your discussion of the other...

THE WITNESS: A. Of this group of eighteen.

Q. Of that group of eighteen?

30 A. Yes.

MR. LEDERER: Just to clarify that, Mr. Laskin, as I

MR. LEDERER: (cont'd.) understand the evidence it would be the one to this point, because as I understood Mr. Pearce's evidence there are still people who are receiving vocational training of some description.

MR. LASKIN: Yes.

MR. LEDERER: So theoretically they could move into that level at some other date.

DR. UFFEN: How many of them are there?

MR. LEDERER: I think you originally said six, Mr. Pearce? That was the first grouping.

THE WITNESS: I said six on formal training, yes.

MR. LASKIN: Q. What sort of training is it? Are they at some community college or educational institution?

THE WITNESS: A. Basically in this particular case, because of the geographic location, we used the facility of Durham College of Applied Arts and Technology at Oshawa. For entry into any skill development program, by and large, a minimum grade ten was sought - preferably grade twelve - and in a lot of cases we had to have the worker concerned go through a formal academic upgrading program to attain the acceptable grade and then move on into the precise skill development program.

Q. Can you tell us anything about the age of these people?

A. We were dealing with an age population of fifty-three to sixty-one.

Q. That's the range?

A. Yes.

Q. So that the people who are in retraining back at Durham College are all within that age group?

A. They are all in that age bracket.

Q. At the time they went on rehabilitation?

A. That's correct.

5 DR. UFFEN: Could you tell me what nature of program did they take at Durham College? Were they into two-year programs, three-year educational programs, or were they into shorter-duration programs?

THE WITNESS: They were all shorter duration, Mr. Commissioner. We didn't really get into postgraduate courses, as is often...

10 DR. UFFEN: Well, the normal program at Durham College would be a two-year technology program or a three-year, dependent on the education, but they do have, I guess, I'll use the term 'diploma courses', which are six weeks, eight weeks, that type of thing. I just want to know...

15 THE WITNESS: Primarily, these fell under the scope of the adult retraining program, and in duration were probably at the most forty-eight weeks. We had, at times, to extend some of those because of difficulties endured.

DR. UFFEN: They were treated as adult students?

THE WITNESS: Yes, indeed.

20 DR. UFFEN: Did they find themselves in classes where the rest of the class was probably in their early twenties or late teens?

THE WITNESS: This was possible. There were mixed classes in age population.

25 DR. UFFEN: Some of those programs are not designed to be taught to people in their fifties.

30 THE WITNESS: Well, we examined that aspect very carefully and certainly I appreciate what you are saying. From my own observations and my own association with Durham College, I felt that they were a rather exceptional college in that respect. An awful lot of individual attention was given to this group because they accepted the fact that they were in the older-population range and a tremendous amount of attention was given in that area.

5 THE WITNESS: (cont'd.) This was a point that was brought out very clearly where in counselling measures we had to give each man concerned reassurance that he didn't have to feel sensitive to these points that you have expressed.

DR. UFFEN: Were you, by any chance, on any of the advisory committees to Durham College? You mentioned your association with the College.

10 THE WITNESS: Not in the true sense of the word. Unofficially, from time to time, I would sit in or be asked to, but not in an official capacity.

DR. UFFEN: Durham College didn't cover the whole spectrum of vocational education. Did any of the people want to go to some other community college which had a program which Durham didn't have?

15 THE WITNESS: No, I can't think of one case where such a request was made. We certainly did, however, make that, you know, very clear to the man concerned, that we weren't...we were simply saying that from our own experiences we felt that Durham offered a good range of services for them, but if they
20 felt they would rather attend another college of their choice, that certainly...

DR. UFFEN: That was open?

THE WITNESS: That was certainly open, and certainly we would meet their wish.

25 MR. LASKIN: Q. The six you have given us who were on training at Durham College, is that six as at December 31, 1980...

THE WITNESS: A. Correct.

Q. ...the date of this program?

A. Yes.

30 Q. Have you been able to update table nineteen for us to the present time, or I think last time you said you were doing an update as of March, 1982?

A. In terms of ...

5 DR. DUPRE: The eighteen, I guess, who were participating...

MR. LASKIN: Q. Eighteen, or even if there were further participants in the program? I suppose...?

10 THE WITNESS: A. If you'll bear with me, I believe I have something here with me. I had, as I gave you in my testimony on July 19th, I had updated these on a project I had undertaken effective March 26, 1982.

Q. What can you tell us as a result of the update?

15 A. I did a complete breakdown in the appropriate categories. For example, the first category I listed was, 'elected to remain in the employ of the company'.

Now, let me just say this, add this, this is now a total of eighty-three, not eighty, and the difference will account for the additional three is that we now have three who have moved over into asbestosis.

Q. From?

20 A. AFDE.

At the same time...

Q. Well, hold on just a sec here. Eighty, I thought, was asbestosis or AFDE?

A. That is correct.

25 Q. So is the additional three, three persons who developed asbestosis or AFDE after December 31, 1980?

A. Yes.

Q. In the company, generally?

A. Yes.

30 Q. But of course would certainly not have been in the transite pipe section after December 31, 1980, because there wasn't any such thing?

A. That's correct.

Q. Was there still an erection and repair department?

A. Yes.

Q. There was?

A. Yes.

Q. All right. So we've got eighty-three now?

A. That's correct.

Q. Okay. All right.

A. So we are working from a total figure of eighty-three. I'm saying that we now have twelve of the eighty-three who elected to remain in the employ of the company.

Q. Just...what figure should I be comparing that with on table nineteen?

A. That would be difficult for me to respond to, because when I did this I am doing this from recent interviews that I again conducted at the plant with these workers, and I was not cognizant of that particular table referred to in the Barth report, at the time.

Q. All right. Okay. Why don't you tell us what your...why don't you...I think...

DR. DUPRE: Counsel, I was just wondering, if the witness has a little table with some figures on it, perhaps we might pause briefly to have it xeroxed and we'll all have it in front of us.

MR. LASKIN: That's a very good idea, Mr. Chairman. An excellent idea.

THE INQUIRY RECESSED

- - - - -

THE INQUIRY RESUMED

DR. DUPRE: May we reconvene then?

MR. LASKIN: Yes.

DR. DUPRE: Counsel?

5 MR. LASKIN: Let's, so we keep our recordkeeping
situation straight here, the sheet that we now reproduced, which
provides some statistics as of March 26, 1982, will be exhibit
seven of phase four, and then Mr. Pearce has also been good enough
to prepare three sheets of paper indicating the situation as at
August 10, 1982, as of December 31, 1980, and as December 31, 1979,
10 and let's call those three sheets of paper exhibit eight, so that
we can keep our records straight.

EXHIBIT # 7, PHASE FOUR: The abovementioned
document was then produced and marked.

15 EXHIBIT # 8, PHASE FOUR: The abovementioned
document was then produced and marked.

MR. LASKIN: Q. Now, it might be easier if we
started with exhibit eight and we'll come back to exhibit seven.

20 Okay. If we go to the second page of exhibit eight,
you there, I take it, Mr. Pearce, set out pictorially some of the
information that appears in Professor Barth's table nineteen. Is
that correct?

THE WITNESS: A. Correct.

Q. Okay.

25 DR. DUPRE: I see. The second page in exhibit eight
is a pictorial description of table nineteen?

MR. LASKIN: Some of the information on table nineteen.

DR. DUPRE: Some of the information.

30 MR. LASKIN: Q. So that we, I take it, see the
eighty known cases; sixty-seven interviewed; of those sixty-seven
interviewed, thirty-two qualified for the program - eighteen saying
yes, electing to participate, fourteen saying no; and then at the

5 Q. (cont'd.) bottom, your total active caseload, which in figure thirty-three, I take it, corresponds to that figure under total active caseload in table nineteen: one (b) out of exposure - thirty-three. Is that correct?

THE WITNESS: A. That's correct.

10 Q. Okay. I think what would be helpful is if you could tell us the fifteen on service. What are we looking at there?

15 A. The fifteen shown on service are not to be confused with the eighteen already established and accepted into the program. These fifteen consisted of a group of fifteen workers who came forth and said, all right, what can you do for me now, at this stage. So these cases were accepted by myself. We set up a rehabilitation file for the purpose of investigating their request.

By investigation I mean it had to be determined their eligibility for the program consideration.

20 Q. But as I understand your evidence they didn't meet the eligibility criteria? At least as initially established?

A. This is true in one sense and not true in another. That may sound a very vague response to your question, but the transite pipe manufacturing division ceased to operate on May 22nd, I believe it was, 1980...May, 1980 for sure, at any event.

Q. Yes.

25 A. Following that shutdown, the minister of labour had conferred with us as to what would happen to any asbestotic or AFDE case who had been actually employed in the transite pipe manufacturing area up to the time of shutdown. After due consideration, the answers that we provided was to the effect that if anyone so affected were transferred to other operating divisions
30 of the company and it could be established after a reasonable period

5 A. (cont'd.) of trial that for medical reasons they were incapable of carrying out or discharging their new duties, then we would waive the requirement for being at risk and absorb these people into the special program.

This is what we carried out.

10 Q. I just want to make sure I understand that, because these fifteen would have been employed in transite pipe prior to shutdown?

15 A. No. The fifteen here, at that particular stage, could have been working in pipe, they could have been working in E and R, they could have been in other divisions of the plant.

Q. Okay.

20 A. So here again when I say 'under investigation', I mentioned it earlier in my evidence this morning that we observed a practice of giving anyone the right to appeal. So any man where I knew an adverse decision may have to be rendered, I would still set up a file and then put that case through the appeals system.

25 Q. Fair enough. It may be that I'm slow, Mr. Pearce.

30 The fifteen are not part of the original eighty, just so that I'm clear on that?

A. No. No, they are extra, over and above the eighty.

Q. And ...

25 DR. DUPRE: Okay.

MR. LASKIN: Okay.

MR. LASKIN: Q. Would they have been asbestotic or AFDE, or is that something that was part of your investigation?

THE WITNESS: A. This is part of the investigation.

30 Q. These are just people who came forward and said, can you do something for me?

A. Came out, yes.

Q. I see. And you determined to investigate?

A. That is correct.

Q. Okay. And after May 22, 1980, do I take it that one of the two requirements, one of the two original requirements for being on the program - that is, being employed in transite pipe or E and R - was dropped after consultation with the ministry?

A. Yes.

Let me rephrase that. The consultations that took place came about essentially...I have seen, myself, a copy of Hansard. The question is raised in the Ontario Legislative Assembly, and in consultations the minister had with officials at the Board, this format was agreed upon.

I don't want to confuse again the use of term board. I would have to say for the sake of qualification, 'my immediate superiors'.

Q. What criteria did these fifteen have to satisfy to enable them to obtain rehabilitation?

A. They would have had to have met now two criteria. The first criteria would have been 'at risk', still at risk, or and employed in transite pipe or E and R. Or if they had been in pipe, and because of the redundancy, they would have to qualify by showing that, say a transfer to another operating division of the plant, medically speaking they were incapable of discharging their newfound duties, new-assigned duties.

Q. Okay. But realistically, after May 22, 1980, it would really have been the latter criteria they would have had to satisfy because transite pipe was no longer?

A. Well, bear in mind...that's true. Bear in mind, of course, these announcements took place when the plant itself was stikebound - May 1, 1980. If my memory serves me, I believe the new contract wasn't ratified until July of that year, and I think

5 A. (cont'd.) the plant didn't become fully operational in deployment of manpower resources until well into August of that year.

Q. All right. Well, let's look at the present situation, on the first page. You now have three new asbestotics or persons with AFDE. You still have only four deceased.

A. No.

10 DR. DUPRE: Given that that's on the last page, my problem at the moment is with the starting number, eighty-three. If the fifteen on service, on the second page, were not part of the eighty that's marked on December 31, 1980, if they were not part of that eighty why do we have eighty-three at the top of the first page?

15 THE WITNESS: May I answer that question, sir?

MR. LASKIN: Please, sir.

THE WITNESS: The additional three are accounted for by the fact that we have three new asbestotic cases presented to us.

20 MR. LASKIN: Q. Persons who developed...persons who were employed at Johns-Manville and who developed asbestosis or AFDE?

THE WITNESS: A. Suddenly I become aware of the fact that a firm diagnosis of asbestosis has been established.

25 DR. DUPRE: I understand that. I guess it's just the...

MR. LASKIN: The fifteen, as I understand it, Mr. Pearce can correct me, are not necessarily persons who had asbestosis or AFDE. They simply came forward and asked to have something done for them.

30 DR. DUPRE: Okay, I've got that.

THE WITNESS: Because of the further amendments, these

THE WITNESS: (cont'd.) fifteen people came forward and expressed, now, what can you do for me.

MR. LASKIN: Okay.

Now, I take it you have been able to interview more persons - nine more persons - from 1980 forward. Would those be the six who didn't originally appear for interview, plus the three new cases?

THE WITNESS: A. That is correct.

Q. And now can you explain the forty-one who now qualify for the program? We have thirty-two who qualified for the program as of December 31, 1980. How does that figure go up by nine?

A. Through the ministerial announcement and our willingness to waive the 'at risk' requirement, so we absorbed an additional nine through that process.

Q. I see. So that just so that I understand it, the ministerial requirement, the ministerial announcement as at plant shutdown, did that mean that if a person was asbestotic, but had never worked in transite pipe or E and R at J-M, had worked elsewhere, but for medical reasons did not seem to be able to handle the job that he or she was presently on, that person would have been eligible for the program?

A. No. He would have had to have been employed directly in the transite pipe manufacturing area.

Q. Or E and R?

A. E and R is still operational there, as a component of the operation of Thermal Twelve. The reason that we designated E and R as being a risk area is because most of the tradespeople attached to E and R spent a great deal of their time in the transite pipe manufacturing area in the discharge of their normal duty. The E and R division housed all the tradespeople - the welders, the maintenance millwrights and so on.

5 Q. I guess my difficulty is that I'm not clear why the figure thirty-two should change, then, because as of December 31, 1980, presumably you, since transite pipe was closed down by then, you should have all of the persons who had ever worked there.

10 A. All right. Of the nine people, some of those in that particular area could have been in the shipping and receiving area. Ministerial agreement conveyed loud and clear that they had to be in transite pipe at the time of shutdown.

Now, some of these people were conceivably others that normally would not have fit the criteria.

Q. But why?

15 A. Because they weren't at risk. Shipping and receiving, for example, in transite pipe, was not deemed to be a risk area because a high percentage of the time was spent outside.

Q. Oh, all right. So that there were areas within the area at risk that weren't deemed to be at risk for the purpose of the program.

20 A. And then by virtue of the ministerial announcement, we felt that in general absorbing the total transite pipe concept we didn't have to be concerned about the stipulation of being at risk. We were in fact waiving that. These nine people had in fact tried out other jobs in fiber glass and so on, and by my so conferring with the plant physician and their family physician we clearly established that medically they were incapable of
25 carrying on their new-assigned duties. So we absorbed them into the program on the basis of the ministerial agreement.

MR. LASKIN: Do you have a question, Dr. Mustard?
No? All right.

30 MR. LASKIN: Q. All right. Of these forty-one, you have twelve who have said no. Does that mean that two persons

Q. (cont'd.) between December 31, 1980, and August 10, 1982, changed their mind and wanted to go on the program?

5 THE WITNESS: A. Yes.

Q. Twenty-six on benefits, three rehabilitated - three rehabilitated meaning that they are gainfully employed elsewhere as a result of your program?

A. That is correct.

10 Q. Within Johns-Manville, or...

A. No.

Q. ...outside?

A. Outside.

Q. Okay.

15 A. I might add, and I think it would be of interest in respect to Dr. Uffen's statement, that one of these persons that we trained is now employed by Durham College. We are quite proud about that.

Q. Twenty-six on the program, eleven employed at reduced wages. What does that mean?

20 A. It means that in terms of our work adjustment allowances that are paid to these workers who participate in the program when they go out into employment, we pay a difference in wages until such time as they reach a level of earning power to that which they vacated at the plant.

25 Q. Six on formal training. Are those the six you told us about earlier that are at Durham?

A. They are still at Durham College.

Q. That's what confuses me a little, because I had understood your answer to Dr. Uffen that they were on basically short-term courses.

30 A. They are on short-term courses, but we aren't rigid in saying that...let me explain it this way. A worker, any adult for that matter, undergoing an academic upgrading program, is

5 A. (cont'd.) expected to complete one grade level at a sixteen week pace. Our people are a little different and we are not that rigid. We have an arrangement with the College to let these people work at their own pace without placing undue tensions and anxieties upon them.

Q. So that these people could be at the College for some considerable period of time?

10 A. I had one chap, as a matter of fact, who we upgraded from grade eight to grade twelve, and it took him almost four years to attain that level. But strangely enough, once he went on to skill development he accelerated at a rapid pace.

Q. Five on investigation?

A. Yes. Again, we have...yes, that's correct.

15 Q. What does that mean?

A. I'm just doing a quick add-up here, because I want to make certain that I'm in the right category here myself.

20 Yes, these are people...these five workers have said to me, I would like to do this, that or the other, or whatever it may be. We are looking into the feasibility of a skill development program or selective job placement or training on the job.

Q. What are these people doing in the meantime?

A. They are awaiting decisions.

Q. Receiving benefits?

A. Receiving benefits.

25 We have also included in that group...there have been inavailability for program purpose as a result of illnesses, it could be compensable it could be noncompensable.

Q. When you say receiving benefits, are they receiving anything other than the benefits they are entitled to under the statute by reason of having a partial disability?

30 A. Yes. The special rehabilitation assistance program makes provision to pay any worker who comes into the program

A. (cont'd.) a work-adjustment allowance to the equivalent of total temporary compensation.

In other words, the maximum total temporary today is three hundred and twenty dollars, nineteen cents per week. Now, provided that the worker's earning power was at twenty-two thousand, two hundred and the time of entry to the program, he could qualify for the maximum three twenty, nineteen.

Q. You mean the full hundred percent?

A. Yes.

Q. Through one way or another?

A. That's correct.

Q. And four on medical treatment, means hospitalized?

A. Hospital, under the care of a certified physician, under his supervision.

Q. Five on service, as opposed to fifteen as at December 31, 1980?

A. That's right. We have since reduced the formal fifteen by ten, leaving still a balance of five.

Q. Did any of the ten get into the program?

A. No.

Q. No?

DR. DUPRE: Can I just ask one question? Can I take it that, from your earlier testimony, as at December 31, 1980, you had eighteen in the program, of whom only one was a former trainee who had become gainfully employed, and then as of August 10, 1982, there are now twenty-six in the program, of whom eleven are gainfully employed, and in terms of the number now employed you have moved from one to eleven?

THE WITNESS: Yes, that's correct, sir.

MR. LASKIN: Q. Can I clarify one other figure? If you go back to table nineteen, (c) six, you show there a figure of ten deceased.

THE WITNESS: A. Yes.

5 Q. Now, when I look at exhibit eight what I see is,
on the second page, four deceased - six did not appear for interview.

Is that the same ten, or is there a...is that the same ten people that we are talking about, that you may have lumped them all in as deceased, but in fact only four were deceased?

10 A. This was certainly not my intent, to confuse
an issue. I am not a statistician, by the wildest stretch of
imagination, believe me.

The original four that appear there as being shown as deceased were, in essence, not seen by the team. They were known to us on the asbestos workers list as being either AFDE or asbestotic, but because of their illness it was just totally
15 impossible for them to appear.

Q. But is that the same figure? I mean the ten on table nineteen...

A. Ten is over and above.

Q. Yes, well..

20 MR. LASKIN: Maybe you can help, Dr. Mustard.

DR. MUSTARD: Let us go to this sheet. What's
this one?

MR. LASKIN: Exhibit seven.

DR. MUSTARD: If you go to exhibit seven, you have the number of eighty-three representing the total. I presume that's
25 the same eighty-three that is on page one of exhibit eight?

THE WITNESS: Correct, sir.

DR. MUSTARD: There are fourteen deceased on exhibit seven?

THE WITNESS: Right.

30 DR. MUSTARD: So now if I go to exhibit eight, you
have four deceased associated with the eighty-three at the top, and those are four people that were unavailable to come in to your

DR. MUSTARD: (cont'd.) interview because they had died or were on the verge of dying?

THE WITNESS: Correct.

DR. MUSTARD: So we have another ten who have died.

Now, do I assume that the ten that died are in the thirty-five that did not qualify, or do I assume that the ten that died are the people in the twelve who said no? Or are they mixed in between the two? They presumably had to be in one of those two places. Is that a fair assumption?

THE WITNESS: They could be included in either 'did not' or 'did qualify'.

DR. MUSTARD: You do not know where they are?

THE WITNESS: That information I would have to dig out.

DR. MUSTARD: Thank you.

DR. UFFEN: I missed something here, too. When Dr. Mustard said on the chart there were fourteen deceased, I haven't found that yet.

DR. MUSTARD: It's on exhibit seven.

DR. UFFEN: Seven? Very well. Thanks.

MR. LASKIN: Q. Is that...Dr. Mustard has got away ahead of me...is that figure made up of the four who were deceased when you went to interview, plus ten who, ten deceased...

THE WITNESS: A. Ten and four are fourteen, yes.

Q. Ten who were deceased over the period...

A. Over the period of time.

Q. Over the period of time?

A. Right.

Q. And you are going to assist us to find out whether those ten come within the category 'did not qualify', or...

A. Correct.

DR. MUSTARD: Or who said no.

THE WITNESS: Or said no, one or the other.

5 MR. LASKIN: Q. I think it would be helpful if you could also find out, if you have the information, what their cause of death was, in a sense are we looking at an asbestos-related death or are we looking at the fact that, you know, they died in a traffic accident.

THE WITNESS: A. Just quickly I can tell you of those fourteen deaths that nine, to my knowledge, claims were allowed.

10 Q. Survivor benefit claims?

A. Yes.

Q. Okay.

A. This I do know.

Q. All right. Well, that's helpful. Of the ten?

A. Yes.

15 DR. MUSTARD: Of the ten or of the fourteen?

MR. LASKIN: Q. Of the ten or the fourteen?

THE WITNESS: A. I'm sorry - the fourteen.

Q. Fourteen?

A. Fourteen.

20 Q. Okay. Could you find out what the cause of death was in respect of the other five, and perhaps even the whole fourteen?

A. Yes, indeed.

Q. Good.

25 Can you just help me with one other figure on exhibit seven? That's the figure thirty-one participating in the program. I would have said...why is that figure different than the figure twenty-nine on the first page of exhibit eight?

A. You are saying a difference of two?

Q. Yes.

30 A. Well, we are adjusting those two by virtue of the fact that I believe I said that fourteen in 1980 said no. Twelve

A. (cont'd.) are saying no now at the present time, which accounted for the additional two.

5 DR. MUSTARD: Counsel, it's even more complicated than that, because if you look at medical disability, requirement six; early retirement, five; retired age sixty-five, in the previous testimony some of those, I think, were part of the program, so that it's almost impossible to relate exhibit seven to exhibit eight, and I think there's a classification part here that needs sorting
10 out which maybe can be sorted out in cross-examination.

DR. DUPRE: Quite aside from that, I mean is it not so that exhibit seven is as of March 26, 1982?

MR. LASKIN: Yes. Oh, yes.

DR. DUPRE: And exhibit eight is as of August 10th?

15 MR. LASKIN: Oh, yes. There is no doubt about that.

DR. DUPRE: That helps explain some of it, I suppose.

MR. LASKIN: Yes.

THE WITNESS: If I may, possibly I am getting a little confused here and if so, I do apologize. We are talking thirty-one, and we are saying...this is in the exhibit that I have
20 headed up 'present situation'.

MR. LASKIN: Q. That's exhibit seven.

THE WITNESS: A. And we are saying...

Q. Oh, I'm sorry. That's exhibit eight.

A. Yes. We are saying twenty-six on the program, and five on service.

25 Q. Oh. I see.

A. That's the thirty-one.

MR. LEDERER: That's the thirty-one.

MR. LASKIN: Q. The thirty-one participating in the program is the same figure, thirty-one active caseload figure,
30 in exhibit eight?

THE WITNESS: A. Yes.

Q. All right.

5 DR. MUSTARD: But then there is the problem of the number at the bottom of the page. It should be, if it's summarizing all that's on exhibit eight, it should come to eighty-eight, because the five are not part of the eighty-three. That's the dilemma that you have.

10 THE WITNESS: The only explanation I can offer there is that when these original tables were done as appears in the Barth report, they were serving really a dual purpose. They were to show convincingly what had happened to the eighty workers so identified at the plant, and over and above that to show exactly what rehabilitation activity or level of activity was being involved here, as shown by an 'active caseload' as we term it.

15 The two are not really married to one another in the broad sense of the word. I can appreciate the confusion there.

MR. LASKIN: I was going to leave the table, Mr. Chairman, but certainly if the commissioners have more questions on the statistical analysis, perhaps now is the time to ask them.

20 DR. DUPRE: I have one that comes to mind. I'm looking again at the front table in exhibit eight.

Now, there are twenty-six on the program, and I'm looking here at the righthand side, but there are three there who are listed as rehabilitated, over and above the twenty-six, correct?

THE WITNESS: Yes, sir.

25 DR. DUPRE: Okay. Now, those three who are listed as rehabilitated, that means that they are now gainfully employed at full wages?

THE WITNESS: One is, and two have attained the recognized retirement age - sixty-five.

30 DR. DUPRE: Oh, so they are the three about whom you testified earlier?

THE WITNESS: Yes, sir.

DR. DUPRE: Okay. So one, indeed, is the individual who is now employed at Durham College?

5 THE WITNESS: Yes, sir.

DR. DUPRE: Okay. And the other two are the retirees.

MR. LASKIN: Q. Where do those...where are those three persons reflected on exhibit seven? I appreciate there is a difference in dates. Perhaps I should ask you, were they
10 rehabilitated as at March 26, 1982?

THE WITNESS: A. Well, these figures in exhibit seven are only up to and including March 26th, whereas the present situation...

Q. I appreciate that, but were those three persons rehabilitated as at March 26th, 1982?

15 A. No, I'm saying up to August 10th, 1982.

Q. All right. Were any persons rehabilitated as at March 26th, 1982?

A. Yes, I would say so.

Q. What...

20 A. I think what is confusing, if I may, the term 'three rehabilitated', we are including...that's a category that we use. Two of them, as I say, attained the age of sixty-five. Of those two, both of them were employed.

I don't think I am making sense there. I don't think I'm being helpful, but that is the category.

25 Q. Okay, but both of them were employed where, elsewhere?

A. Yes.

Q. Through your training program or because they found a better job themselves, or another job themselves?

30 A. In one case we assisted in job placement, and we paid that man a differential in wage loss, as I say, up to the time

A. (cont'd.) that he attained age sixty-five.

The second man, we assisted him in gainful employment.

5 He had to give up the same...for health reasons...and at the same time he had approached the retirement age of sixty-five.

Q. I see.

A. The third chap we trained and he has since been offered full-time employment in the field for which he received the benefit of training.

10 Q. Okay. That's at Durham College. Okay.

Do you have any figures..and this may be a little outside your area...but does the Board...I assume it does...have the figures that would tell us whether these persons who went on the program and were taken out of the risk areas developed further progression of their asbestosis?

15 A. Yes.

Q. Do you know whether your medical personnel has looked at what benefits, if any, have been derived from taking these persons out of risk - not from an employment perspective so much as from a medical perspective? In other words, have they looked at the progression of their disease?

20 A. I have had ongoing discussions with both Drs. Dyer and Stewart on that very topic, because certainly it has always been our shared common belief that this was the objective of the program, in the hopes that by taking people out of risk it would arrest the disease, and hopefully, if that proved to be the case, we would have deemed the program would have indeed served its purpose.

25 Q. As at August 10, 1982, have you or has the Board come to any conclusions as to whether the program has been successful from that viewpoint - arresting the disease?

30 A. As I say, I've had discussions with Drs. Stewart and Dyer on this matter, but to come to a positive conclusion in

A. (cont'd.) that regard, these have been informal discussions, let me answer your question that way.

5 DR. DUPRE: I would have imagined offhand, counsel, that one simple index of checking whether there was success in that sense would be to simply try to determine whether some individuals who at the beginning of the program were, say, on a ten percent partial disability pension for asbestosis had gone up or had stayed at the same level...

10 MR. LASKIN: I agree.

DR. DUPRE: ...and again to check the records to see if anybody who was once AFDE had, say, since had to be moved into a partial disability for asbestosis. So maybe the...

MR. LASKIN: I agree with you, Mr. Chairman.

15 DR. DUPRE: ...medical services division, at least, would be able to help us on that?

THE WITNESS: Yes, we could.

DR. MUSTARD: Also, in doing that, disclose where the deaths had occurred, because if some of the deaths had occurred in the group who qualified, that's also an index of progression.

20 MR. LEDERER: I'm sorry. You are distinguishing between those who qualified and those who actively participated in the program?

DR. MUSTARD: Yes, and I have another question to ask for information, if I may, counsel. If you take exhibit seven, which I presume is the same eighty-three as on page one of exhibit 25 eight, there is a substantial problem because if I try to look at the terms used there and put that up against the do not qualify question, I note that twelve elected to remain in the employ of the company, only rejecting entry to the program, which is an interesting classification of people.

30 I note that we have 'took medical disability retirement, six; took early retirement, five; retired at age

5 DR. MUSTARD: (cont'd.) 'sixtyfive, eleven', and if
I add all those people up and come up with fifty-two, and those
are some very interesting reasons as to why, what people did, and
they certainly amplify, in my view, the 'did not qualify' group
in a different kind of configuration than the simple qualification
requirements that we have, I think, that they had taken retirement.
That's a different dimension, so I wonder if you could not do it
here - take exhibit seven and try to tie that into the first page
10 of exhibit eight for us.

MR. LEDERER: I'm sorry, Dr. Mustard. Perhaps it's
my turn to be slow. I don't quite understand where you got the
fifty-two. I thought you...

15 DR. MUSTARD: Fifty-two, because if you take thirty-one
participating in the program from eighty-three, you are left with
fifty-two.

MR. LEDERER: I see.

20 DR. MUSTARD: I have to somehow relate that over to
exhibit eight, and I know with exhibit eight you've got thirty-five
and then you've got seven at the top, which takes you up to a
figure of forty-three.

25 You've got the forty-one that did qualify and you've
got the twelve who said no. One needs to really get the
distribution of these people because it looks like a lot of the
people who did not qualify may have been in the deceased category
or may have been in the retirement category, because you've got
'took medical disability retirement, six; took on early retirement,
five; retired at age sixty-five, eleven'. That's twenty-two
people and I think we need to know how they are distributed in
the data.

30 MR. LASKIN: Q. Do you also have any distribution,
Mr. Pearce, as between asbestotics or those with AFDE, in terms of
qualifying for the program and then participating in the program?

5 Q. (cont'd.) In other words, can you tell us is it mainly the asbestotics or is it mainly those with AFDE who are seeking to avail themselves of the program? Is there any breakdown of that nature?

THE WITNESS: A. I would say that the asbestotics were in excess of AFDE cases.

Q. Wanting to be on the program?

A. Yes.

10 MR. LASKIN: I have no further questions, Mr. Chairman. Thank you, Mr. Pearce, you have been helpful, I think, in clarifying the information from last time.

DR. DUPRE: Mr. Cauchi?

CROSS-EXAMINATION BY MR. CAUCHI

15 Q. I would like to start on this exhibit seven. I don't have exhibit eight, or whatever it is, but I have exhibit seven here, and it says 'twelve still working at the plant'. Is that correct?

A. Number twelve is shown there as 'still remain...

20 Q. 'Elected to remain', yes.

A. ...in the employ of the company, yes.

Q. Are they still there?

A. They were as of March 26, 1982, when I compiled that list.

25 Q. You wouldn't know whether they are still working there today or not? This is five months later. If they are eligible for rehabilitation or not, I think we should know whether they are still working there or not.

A. The twelve people have indicated to us that they have no desire to participate in our program...

30 Q. But they are eligible?

A. ...and they elected to remain in the employ of the company.

Q. I understand all that, but are they still working there?

5 A. They could be and they could not. There have been further layoffs with that plant.

My responsibility to that group of twelve, so stated there, was to determine what their desire was, and we determined it.

10 Q. Is it true now that when there is layoffs, because of the minister's statement, that anybody that was eligible for the program is being laid off, that the company will get in touch with you and advise you that this man who was eligible for rehabilitation is being laid off because there is no such work for him anymore?

15 A. We were notified well in advance of layoffs that were about to come. The company had expressed a concern themselves for the wellbeing of these people.

Q. That's not what I asked you. I asked whether you are notified about these twelve people, if they are still working there or being laid off?

A. I am notified, yes.

20 Q. So are they still there or not?

A. They were as of March 26th, 1982.

Q. So you wouldn't know within five months if they had been laid off or not? You said there was some layoffs lately, but you wouldn't know whether these twelve got laid off or are still working there because the company did not correspond with you?

25 A. No, that is not correct at all, Mr. Cauchi.

Q. Well, what is it? You tell us.

A. I'm saying to you very distinctly that when I did the information as related to in exhibit seven...

Q. March 26th. Today is August 12th.

30 A. ...March 26th, 1982, that I had full knowledge that twelve people had said to me very distinctly that it is my choice and decision to remain in the employ of the company.

5 Q. It's their prerogative to do that. I'm not questioning that, Mr. Pearce. I'm questioning whether these people are still working there or have been laid off.

A. Well, I haven't identified. I have just said twelve people.

10 Q. Yes. At that time they elected to remain there where they have a job, but you wouldn't know whether they still have a job in there or not?

A. Oh, I would know.

Q. You would know?

A. Yes.

Q. Are they still working there?

A. They were as of March 26th, 1982.

15 Q. So five months later you wouldn't know, today?

A. I don't understand your question, I really don't.

MR. LEDERER: Mr. Chairman, if Mr. Cauchi will permit me, and I don't want to interject, I think I understand the problem, and if you will permit and if he will permit me, I will try to put a question to Mr. Pearce that I think will explain the problem.

20 I don't want to do it unless you agree, of course.

DR. DUPRE: Do you wish Mr. Lederer to pose the question, because if you don't I have a question that I would...

MR. CAUCHI: Go ahead. I don't have...no, you go ahead.

25 DR. DUPRE: Go ahead, Mr. Lederer.

MR. LEDERER: Mr. Pearce, I think what Mr. Cauchi is getting at...and if I'm wrong I'm sure that he will tell me...

MR. CAUCHI: You go ahead.

MR. LEDERER: Thank you, sir.

30 You have indicated to him and you have said it several times quite distinctly that as of the date of exhibit seven, twelve people had determined not to participate in the program and were

5 MR. LEDERER: (cont'd.) still at the plant. And I think what Mr. Cauchi is asking is, given the notification procedures which you say exist between you and between the company, have you received any notification specifically in reference to these twelve people or any of them, that would indicate to you that one or two or any number of them are no longer working at the plant. Do you have that notification anywhere?

10 THE WITNESS: No, I don't.

MR. LEDERER: All right. Does that...?

15 DR. DUPRE: Now, can I ask this, maybe to get a little further clarification? Is it your understanding, Mr. Pearce, that any person who is deemed eligible for the program who refused the program, but who is thereafter laid off, given the ministerial pronouncement can once again be considered for the program if he is laid off?

20 THE WITNESS: We would have to...and I have to give cognizance to your term 'considered'...we would have to at this point in time review all circumstances pertinent to his proposed admission to the program at this particular date.

25 DR. DUPRE: But is...I guess the point that I'm really trying to get to...is it your understanding...is your understanding the same as Mr. Cauchi's in the sense that there is a ministerial pronouncement that says if there are layoffs, individuals who are employed at the plant but who previously had been qualified for the program will be considered? Is that your understanding?

30 THE WITNESS: The ministerial announcement specified that because of redundancy and whereby it had been shown conclusively that upon being assigned new duties medically speaking the man was incapable of discharging the new duties, then he would be accepted into the program.

Now, a situation where a man is ultimately laid off

5 THE WITNESS: (cont'd.) completely and then comes back now and says, well, because of my layoff I want to come into the program at this point in time, as I say, we would have to take this under advisement, carry out an investigation and render a decision.

10 DR. DUPRE: I guess what I'm really after, and maybe Mr. Lederer is going to be able to put my question better, is simply in terms of getting a grasp of the following, and it would be that if there has been the kind of ministerial pronouncement that we are talking about, I would have anticipated that if this pronouncement was in fact being implemented there would be a system whereby the company would notify the WCB of individuals who wound up being laid off, and if that is the case, you know, if that
15 procedure was put in place, if it was put in place and if somebody at the WCB is in charge of it, the answer to Mr. Cauchi's question could be a relatively simple one because, all right, we do know that there were twelve who were employed at the company in 1980, and at this point it would be possible to simply say if the WCB has not been notified since March 26th, then we can safely presume
20 that there are twelve still there. But if the notification procedures aren't working, well, of course it is then very difficult to answer Mr. Cauchi's question.

MR. LEDERER: Mr. Chairman, if you could just give me a moment I think I might be able to lend some assistance to that.

25 DR. DUPRE: Counsel?

MR. LEDERER: If you would permit me to ask a question of Mr. Pearce, I may or may not be able to to clarify that question at least in part.

30 Mr. Pearce, if we can just look at those twelve people, and without wanting to restate your position again, as of March 26th, 1982, those twelve people would have been within the employ of the

5 MR. LEDERER: (cont'd.) company. Mr. Cauchi has raised the possibility, as I understand it, that some of them may have been laid off in the interim and seeks to determine if that's the case and if so, how many there are. That would, of course, require some kind of notification process between the company and the Board.

10 Apart from that means of removing those people from the employ of the company, would it be possible that some of those twelve may have retired in the interim period, or may have on their own found other employment. In other words, they might have removed themselves from the employ of the company through some motivation of their own as opposed to motivation of the company itself.

15 Is that...first of all, is that a possibility given this table and the way it has been arranged?

THE WITNESS: That could be a possibility. The best way I can answer your question is that there has been very, very close liaison between the company and myself in respect to contemplated layoffs.

20 Now, if I may go on, layoffs are done by seniority basis and I'm sure Mr. Cauchi will appreciate the fact that any of the people that we are concerned in the eighty-three would be either AFDE or asbestotic, and a latency period is involved in those cases before the disease is ultimately surfacing, so it would certainly convey that these were long-term employees, and long-term employees were not laid off.

25 The premise of laying people off, as Mr. Cauchi well knows, at the plant, was the last man in-the first man out.

30 MR. LEDERER: Can I just take it a step further with you? I think what you have indicated is there is at least some rational explanation to assume that of the people who have been laid off in the interim, these twelve people may not be among them, or whatever number remains, but if I can just take it a step further:

5 MR. LEDERER: (cont'd.) If somebody retired or if somebody sought employment on their own with some other company, would you have been notified of that fact by either the employee or the company?

THE WITNESS: Yes.

10 MR. LEDERER: So you would have received information, as I understand it now, from the company as to each and every one of these twelve people who left the employ in the interim period from March 26th to today's date?

THE WITNESS: Yes.

15 MR. LEDERER: All right. Is that information available, because I think that's really what Mr. Cauchi is after. Could you, if you went back into your records, could you discover for this Commission how many of those twelve people are still, as of August 12th, 1982, still within the employ of Johns-Manville? Is that information available somewhere?

THE WITNESS: Yes, that could be procured.

MR. LEDERER: Do you have it with you today?

THE WITNESS: No, I do not.

20 MR. LEDERER: Mr. Chairman, would it be suitable then, as with all the other things which we have undertaken to provide, if we provided that for you later, Mr. Pearce?

25 THE WITNESS: Mr. Chairman, if I appeared guarded in my reply, I think it was based upon the fact that I didn't have this information and it's somewhat of a strain to be here, believe me.

MR. LEDERER: Well, as I say, we will provide that with the other information.

I hope that's of some assistance.

DR. DUPRE: Thank you, counsel.

30 Proceed, Mr. Cauchi.

MR. CAUCHI: Q. Another question on exhibit seven,

5 Q. (cont'd.) and this again goes to the correspondence between management and compensation board, or Mr. Pearce has said: 'took medical disability retirement - six, took early retirement - five'. There is eleven of them that either took medical disability retirement or early retirement.

Are these eleven included in the group that were eligible for rehabilitation?

10 THE WITNESS: A. Again, I did not give a breakdown of those statistics. If you want that information, it can be procured.

My concern here was simply to categorize at the present time the group of eighty-three.

15 Q. Well, do you know if any of these eleven are on any WCB pension?

A. Would I know at this precise time?

Q. Yes.

A. No, I would just be drawing numbers out of the air and attempting to answer your question that way.

20 DR. DUPRE: Are those numbers we can get as well, Mr. Lederer?

MR. LEDERER: Certainly, if it's available, Mr. Chairman. I don't want to appear obstreperous. I'm just sitting here trying to figure out how it is that this would help the Commission...sorry, how those figures would help this Commission. It's a little unclear to me.

25 DR. DUPRE: It's a little unclear to me as well, counsel, but what I believe may be involved here is simply the following, as a matter of, you know, purely as a matter of fact informing the Commission about what kinds of allowances these individuals are receiving, and basically, you know, just in terms of getting a handle on how the various compensation programs fit
30 together.

DR. DUPRE: (cont'd.) Let me put this question to you, which is a kind of broader version of Mr. Cauchi's, that I'm not at all clear on.

Since we have some people in the rehab program who are asbestotics, certified asbestotics, I can take it that there must be some people on that program who have successful claims for permanent partial disability pensions of ten percent, whatever it is. By definition I think it would follow that they are asbestotics.

One thing that I'm interested in, simply in terms of understanding how a WCB program works, is if you have one of those individuals who is on the rehab program, presumably is the way the compensation works that of course he gets his ten percent pension or whatever it is, and then of course the rehab pension makes up the difference between that ten percent and what he is entitled to, or what. That's...you know, you are asking if there it's of any use...

MR. LEDERER: Mr. Chairman, if I may just see if I understand what you are saying to me and then certainly if the information is available, we'll get it for you.

As I understand this chart, and maybe I'm the one who doesn't understand it, you've got thirty-one people who are involved in the program and then you have Dr. Mustard's other fifty-two people that we talked about earlier, and presumably if those six and five falling into the category of people who are not part of the program are getting WCB benefits, they are clearly getting it through some other program - presumably one of the Board's regular programs.

DR. DUPRE: Oh, that six and five. That's correct, yes.

MR. LEDERER: Now, if I understand what you are saying to me, you are saying that would be use to you simply to see how the WCB has treated those people in the regular course.

MR. LEDERER: (cont'd.) Is that...?

5 DR. DUPRE: No, no. Well, in terms of the example I gave of one of the things I am interested in, I realize that I would only find the relevant information among the thirty-one.

MR. LEDERER: Yes, that's my point. That's precisely my point. They are outside of the program.

10 MR. CAUCHI: But a clarification, Mr. Chairman, for your information, a person that's receiving ten or twenty percent disability pension, it don't exclude him from receiving another hundred percent pension for being rehabilitated.

If a man is on twenty percent disability, he still is going to get a hundred percent for being rehabilitated.

15 DR. DUPRE: Now, you have given me the information I wanted, Mr. Cauchi. Thank you very much.

DR. MUSTARD: I think, Mr. Counsel, that...

MR. LEDERER: Yes, sir?

20 DR. MUSTARD: ...as I requested per exhibit seven, that discloses...that raises a full series of questions in our minds, and I think we just simply need the information.

MR. LEDERER: Very well.

25 DR. MUSTARD: I regret having to do that. I would almost have the feeling that one would need to look at each individual file to find out what's going on, but I take it you can just translate that information so we can understand it in relation to all the other information that's on exhibit eight, and then we will be able to sort it out.

30 MR. LEDERER: Well, I think part of...I don't want to prolong this unnecessarily. I think part of my problem is that as I read seven and eight, the divisions are just entirely different and I don't know that they do correlate, but certainly we will obtain the information and provide it to you.

If I might just say one thing, Dr. Dyer is reminding

5 MR. LEDERER: (cont'd.) me that it is incorrect to refer to the rehabilitation payments as pensions. It's not a pension, it's a rehabilitation payment or benefit, which is different in category.

THE WITNESS: We properly term that the work adjustment allowance.

10 MR. LEDERER: I'm sorry. I take it, Mr. Pearce, that information is available? We'll have to go back to the files and find it.

THE WITNESS: Yes, yes.

DR. DUPRE: Go ahead, Mr. Cauchi.

15 MR. CAUCHI: Q. When the rehabilitation was announced by the minister on May, 1976, were you included in the team?

THE WITNESS: A. I was at that time at Elliott Lake.

Q. So you were not included with the asbestos program team?

A. Yes, yes.

20 Q. Were you included in the team that interviewed eligible employees the first time?

A. In June of 1976?

Q. Yes.

A. No.

Q. Were you included with the team that met with the company and the union to get the program started?

25 A. No. I was not there then.

Q. Okay. I just want to know whether you were there or not, that's all.

30 How many, on page eight-ten of the Barth report, it says 'on training'. That's number three. There is 'formal - three, and training on the job - seven'. Is there seven training on the job at the present time?

A. No, we have six.

Q. Training on the job?

A. I'm sorry. There is formal training.

DR. MUSTARD: Mr. Pearce, you might like to look at page two, December 31st, in which you list seven training on the job and you do not list any on your page one. One would assume that there are men training on the job the way it is presented.

DR. DUPRE: I think...the three and the seven that are on table eight-ten do appear on the second page of exhibit eight where you see three on formal training and seven training on the job. Is that correct, Mr. Pearce?

THE WITNESS: That's correct, sir.

DR. DUPRE: Now, may I take it then, just to see if I understand these tables, that if exhibit eight is correct the answer to Mr. Cauchi's question must be that there are none training on the job, because on exhibit eight I see that there are six on formal training and training on the job is not mentioned.

THE WITNESS: That's right, sir.

DR. DUPRE: Is that correct?

MR. CAUCHI: Q. But when this study was taken, there were seven training on the job?

DR. DUPRE: As I would understand it, and I'm just going to answer your question to make sure that I understand Mr. Pearce, and then he can correct me...I think the answer to your question, Mr. Cauchi, is that as of December 31, 1980, there were seven people who were training on the job, and of course three were on formal training.

Now, if I understand exhibit eight, as of August 10, 1982, two days ago, there are zero receiving training on the job and there are six receiving formal training.

Now, is that correct, Mr. Pearce?

THE WITNESS: That's correct, sir.

MR. CAUCHI: Q. I would like to know what training

Q. (cont'd.) on the job means. Would that be in Durham College?

5 THE WITNESS: A. No, no. That is designated formal training. Training on the job is essentially where an employer is sought out and has expressed a willingness to take a worker into his plant or operation and give him precise training there on the job.

10 We extend the same considerations and payments in the same manner as though he were attending Durham College.

Q. Now, in the criteria for the guideline, to be introduced or to be eligible and qualified for the program, you have to be three things...I'll say that again because we mentioned it this morning and the chairman asked where the four comes in.

15 Actually, there were not three. There was one. If you are an asbetotic or asbestos dust effects, that was the only criteria when management and union met with the team.

As a matter of fact is it true that you have people in the program from the shipping department?

A. Yes.

20 Q. Is it true that you have people in the program from other departments than transite pipe and E and R - namely, fiber glass, thermobestos?

A. That happened at the beginning, yes.

Q. Why is it happened? Because they were eligible at that time?

25 A. No, it was a question then, in the early stages...

Q. If you have asbestosis, you qualify whether you work in Timbuktu or not.

30 A. No. I would like to add to that Mr. Cauchi, that in the very early stages a great deal of pressure was exerted upon us to move along with this as rapidly as possible, that some errors

5 A. (cont'd.) did take place and some people were admitted who normally, under rigid application of the criteria, would not have qualified. But when this came to our attention, in keeping with the Board's policy where doubt exists to give the injured worker the benefit of the doubt, we permitted those to remain on the program, readjusting our thinking along the way to ensure that this would not occur again.

10 DR. DUPRE: I think if you were here when Dr. Stewart testified...were you, Mr. Cauchi?

MR. CAUCHI: I did, yes.

DR. DUPRE: Yes. And he testified exactly to that effect.

15 MR. CAUCHI: Yes. But what I question Mr. Pearce about is because we kept saying this morning, and even the guidelines that were presented to us by the WCB, and I wish somebody come out with the first guidelines. I'm sorry I don't have them...I gave them to the union president when I left the employment, but the guidelines were strictly stressed by the minister, who was Bette Stephenson at the time, that if you are suffering from asbestos dust inhalation and if you were an asbestotic, and it doesn't matter where you work or where the location of the plant will be - you are eligible for rehabilitation, and that's why everybody was called at the Howard Johnson Hotel, by the team, and to my knowledge... I was one of the first ones to be interviewed, I was never told that we have to wait to get a dust reading before you will be 25 eligible or not. That was the first eighty persons that were interviewed.

Is there any salaried employees on the program?

THE WITNESS: A. Not to my knowledge.

Q. Was there ever salaried employees on the program?

30 A. I beg your pardon?

Q. Was there ever salaried employees on the program?

5 A. Well, I would like to correct that. I'm trying to draw on my memory as best I can, and I'm attempting to correct an earlier statement when I said 'not that I remember'.

Yes. I will modify that statement. There is one salaried person on our program.

Q. Still on the program?

A. Yes.

10 DR. DUPRE: May I ask if this individual is among the group that was very early-on interviewed for the program?

THE WITNESS: Yes, sir.

DR. DUPRE: Before the transite pipe/erection department came in?

15 THE WITNESS: Closed down, yes.

DR. DUPRE: Okay.

Thank you, Mr. Cauchi.

MR. CAUCHI: Q. Now, these figures on exhibit seven, were these figures provided by the J-M corporation to you, or by the WCB?

20 THE WITNESS: A. They were produced from our own records, from our own knowledge of each individual case.

Q. So I go back to exhibit seven again. That six and five that took early retirement and took medical disability, if you could compile these records, management must have sent information to the WCB about these eleven people that took early retirement and took disability retirement.

25 A. Mr. Cauchi, in the normal course of my duties I have, of necessity, ongoing contact not with management but with the medical department of the company. Most of this information is of a medical nature and therefore it's highly confidential, so this is not obtained from the company. We deal strictly with the
30 medical department, who are thoroughly conversant with the Health

5 A. (cont'd.) Disciplines Act in relation to confidentiality, and to aid me the facilities are extended to me to gather this information so that we can currently keep abreast of the current status of each worker concerned.

Q. I hope you say that again. Are you telling me that management physicians are giving you medical data of their employees?

10 A. I beg your pardon?

Q. Is medical people from the J-M corporation giving you medical data on their employees?

15 A. No. I said that what I am doing is liaisoning with the medical department in any matters relating to the eighty-three people that we have a vested interest in, in respect to their medical data, which is either asbestosis or AFDE.

20 Q. Mr. Pearce, let me ask you exactly the same question again, which you answered me that this is a matter of secret, of a patient/doctor relation...how did you find out about this medical disability retirement and early retirement? You stated because you, on a normal basis, are being in touch with the company physician, is that correct?

A. That's correct.

Q. And get their medical data from the company physician?

25 A. As it pertains to the group of eighty-three, yes.

Q. Thanks.

DR. MUSTARD: May I ask a bit of clarification about something?

MR. CAUCHI: Yes.

DR. MUSTARD: Medical disability retirement would surely involve the Board in some kind of agreement, would it not?

30 THE WITNESS: No. That's a terminology used by the company.

DR. MUSTARD: I see. That's a company...

5 THE WITNESS: They have an established format in
medical disability retirement whereby if the worker is deemed to
fall within the range of seventy-five to eighty percent incapable
of performing his normal duties, he can go out on medical disability
retirement - provided the plant physician and his own general
10 practitioner are in concert with that assessed percentage of
disability.

DR. MUSTARD: But if he goes out with that, does
the Board not provide compensation?

THE WITNESS: In the majority of those cases, to
answer your question specifically, Dr. Mustard, I would say that
the recipient was asbestotic.

15 If he was not on the special program at the time of
departure, in that category, then he wouldn't receive benefits over
and beyond his pensionable disability.

DR. MUSTARD: Let me run through this again. I don't
think...I would like...I think you just provided the information
for us. Of the six who took medical disability retirement, and
20 I understand it from the testimony that has been given that they
would have done that at the company's influence?

MR. LEDERER: The plant, yes.

DR. MUSTARD: I think it would be useful to know
what kind of compensation they are receiving, if any, from the
25 Board.

MR. LEDERER: I thought we had already undertaken
to provide that, and we will provide it, certainly.

DR. MUSTARD: Now, the second point I am becoming
a bit concerned about is, what is...surely if you have a liaison
with the company about retirement there isn't a medical
30 confidentiality question. Simply you are passing information that

5 DR. MUSTARD: (cont'd.) they have retired for medical disability reasons or they have taken early retirement or they have retired because they reached age sixty-five.

MR. LEDERER: I entirely agree, and I appreciate you having brought that up. I was going to, frankly, if you hadn't.

10 As I understand the witness's evidence...and I bring it up because I don't want Mr. Cauchi to be misled about this...as I understand what Mr. Pearce has said, he has been informed by the medical department that people have taken early retirement or taken medical disability retirement, but there is no suggestion in the evidence to this point that any material restricted by the normal rules of confidentiality has been given to Mr. Pearce at all.

15 It's a simple fact of these two items, as I understand the evidence.

DR. DUPRE: That's my understanding of what Mr. Pearce said, Mr. Cauchi.

MR. CAUCHI: Whatever he said, it's on record then.

DR. DUPRE: Pardon?

MR. CAUCHI: It's on record, whatever he said.

20 DR. DUPRE: Okay.

MR. CAUCHI: For the benefit of the Commission, within the last four or five years...I'm not sure of it because like I said, I been out of the plant for six years...the company have an early retirement plan agreement with the union that even though you are on a ten percent disability pension from the compensation, you could get out at a hundred percent from Johns-
25 Manville - plus...and there is a catch to that which I helped three of them...you get a paid-up life insurance if you are a certain age, but to qualify for that type of payment and a pension all you got to do is sign a confidentiality paper to your doctor, the insurance company. In turn, they go to the family physician
30 and everything is put through by the people at the J-M corporation.

5 Q. (cont'd.) And this is where the eleven, I believe, came in, because they were not able to do the job that they were asked to do by management, when the transite pipe shut down, and these eleven people that took early retirement or disability retirement couldn't even get in the program and had no choice but just go on the early retirement, because they were frustrated and appealing one at a time to get on the rehab program or the one hundred percent benefit.

10 That's where the eleven comes in.

DR. DUPRE: I see. That is your perception of what that six and five involves?

15 MR. CAUCHI: Correct. I don't see no difference between early retirement because of disability and early retirement, because you can't get early retirement unless you are disabled.

20 At the time it was age fifty-five restriction, and now the age is forty-five restriction. You could retire at age of forty-five, provided you are medically unfit to do the work they ask you to do.

25 MR. CAUCHI: Q. You say you have an ongoing program with the Durham College about these workers that took the program, and asked by one of the Commissioners, Mr. Uffen, about the nervousness of being included with eighteen year olds, when some of them, as you said, are sixty-one years old, is it true that one of the men that you put in there was so frustrated after putting up with sixteen and fifteen year olds at the college that he had to seek psychiatric help and was advised by Durham College to stop going to the college, and after he done so was cut off payments?

30 MR. LEDERER: Well, before Mr. Pearce answers the question, I don't want to again appear to be in any way to be obstreperous. As I have always said, it has been my instructions to

5 MR. LEDERER: (cont'd.) be sure that you get all the information, and Mr. Cauchi, to his credit, very careful not to mention any specific names, just concerns me that it is perfectly obvious that he knows who he is talking about - I frankly don't, but any number of other people in this room might - and if Mr. Pearce answers this question I'm not sure that in effect he isn't giving out information which may be confidential, even though the name hasn't been mentioned.

10 It's not out of a desire to hide it, it's out of a concern for the legislation.

DR. UFFEN: I haven't the slightest notion of who the individual is, I haven't any interest in knowing...

MR. CAUCHI: Neither do I, sir.

15 DR. UFFEN: I do find the possibility that the point is of some interest because our major interest, or mine is, is to find out what makes this succeed or not succeed, and if we can identify even one thing that made it very difficult for the rehabilitation to work, I think we'll make some progress.

20 So provided we don't identify anyone, and provided we don't berate it, I think the question is of interest to us.

MR. LEDERER: Well, perhaps I could just leave it as a concern, have the question answered and see what happens next.

MR. CAUCHI: I only raised the matter because...

DR. DUPRE: That's fine, Mr. Cauchi, we understand.

25 Can you answer that question, Mr. Pearce?

THE WITNESS: I'll attempt to, sir.

I have full knowledge of what Mr. Cauchi is referring to. We'll refer to him as Worker A, if you wish.

30 He was asbestotic. At the time he came on the program he had, prior to coming on the program, undergone a very tragic moment in his life where he lost his wife through very tragic circumstances and he just couldn't recover from the shock of death on the part of

THE WITNESS: (cont'd.) his wife.

5 We, in turn, were extremely sensitive to the problems
that this man was enduring and rather than portray that we were
insensitive to his needs we, to coin a phrase, closed a blind eye
to an awful lot of things in that particular case, and by closing
a blind eye, I mean we gave him what we concluded was ample time
to recover from this shock by not forcing him into a creative
10 job search or other things that normally would be associated with
establishing to our benefit that he was justified in obtaining
payment through the program.

15 Now, finally we had reached the point in time, some
four years down the road when we continued in a like manner, and
in an interview with Worker A, I brought to his attention that
since I had noted an appreciable change in his entire outlook would
it be right for me to assume that we could now sit down and
objectively discuss his future expressed in terms of vocational
programming.

20 He said he would think about it, and in due course
he gave me a letter expressing in his own words that he had
immigrated to Canada from his native place of birth in Europe, and
he had never mastered the English language under a formal training
scheme. In other words, he was self-taught to read and to express
himself. He could not write.

25 I suggested to him then it might be advantageous
if we had him go to an upgrading program at Durham College.

Durham College in this case was selected because
it was in close proximity to his place of normal residence.

30 After a very brief spell at Durham, he couldn't cope
with it, he felt that it was just too much. It's true, he became
extremely sensitive to various issues that came about and without
notifying me he disqualified himself from the college.

I didn't learn any factors about this until I had

THE WITNESS: (cont'd.) an inquiry from his provincial member of parliament.

5 Normally in cases of this nature I try to see these people on a regular, ongoing basis. As I hadn't seen him in the intervening period, when we got together finally he told me that I had forced him into going to school against his wishes knowing full well that he was going to be exposed to extreme difficult
10 circumstances and situations, and he just didn't feel, under the circumstances, that he could do anything further.

So I suggested to him that such being the case that he attempt to get an early appointment with his family physician. My thinking on that line was, I was seeing a return to his former self in terms of the depression that he had experienced in the past.

15 He was referred to a medical specialist for consultation at his request, and he gave more full authority and full sanction to discuss this with his medical specialist. The medical specialist agreed that a great deal of this man's trouble was simply based on insecurity, that it became increasingly obvious to him that to try and reach for an academic upgrading program was
20 not within this man's realm and that we should look to other alternatives.

I went back to the man in question, discussed this with him, and he told me that as far as he was concerned because of his asbestotic condition he was completely and totally incapable of taking on any work of any sort whatsoever. He declared himself,
25 in other words, to be totally incapable of working.

I pointed out to him that under our terms of reference within the program to enable me to continue authorizing payment of the rehabilitation allowances or the work adjustment allowances as we properly term it, that I had to have some evidence
30 in this direction. He told me that this was virtually impossible,

5 THE WITNESS: (cont'd.) and I said, well, I have to justify this and you are forcing me into a situation where I will have to curtail payment.

I advised him, on the other hand, that if this was his firm decision that he was indeed totally disabled and incapable of working, then his only alternative was to go and seek disability payments through the medium of Canada Pension.

10 He was still, of course, then in the receipt of a disability pension for asbestosis.

I had no alternative but to put his payments into suspension, and these payments on the rehabilitation allowances were curtailed.

15 They remained curtailed for, to my knowledge, some three months. Now, I had continued to see this man during the period of curtailment. There was no clash of personality here, he didn't bar me from his door. It is my considered opinion that we had a good rapport.

20 In that three month period, again with intensive counselling, he come out of this. I discussed it with our team members, two of whom are present here today, and we took the team concept of dealing with this and we agreed - because again, now, of the expression of willingness on this man's part to co-operate and work with us towards an objective goal, with the emphasis placed on assisting himself - we reinstated his allowances and went beyond that, we went retroactive back to the date of cutoff and he received a cheque accordingly.

25 He is still on the program today and is still deriving benefits from it. I am working together with him towards an objective goal and I anticipate that in a very short period of time the problem will be resolved.

30 DR. DUPRE: May I ask, Mr. Pearce, in terms of our table here on exhibit eight as of August 10, 1982, that individual

DR. DUPRE: (cont'd.) presumably is among the twenty-six on the program. Is he...where is he listed in the breakdown below?
Is he one of the four on medical treatment?

THE WITNESS: Yes, sir.

DR. DUPRE: Okay. That enables me to understand that chart. Thank you.

Any further questions, Mr. Cauchi?

MR. CAUCHI: Yes.

That was a nice speech, Mr. Pearce. I congratulate you for it. You must have rehearsed it.

DR. DUPRE: Mr. Cauchi, if you please, I'm going to remind you as I have had to remind some other counsel around here from time to time, there will be no editorializing.

One other point crosses my mind. We have had the witness on the stand now for quite some time and I wonder if we might take a break until quarter to twelve.

THE INQUIRY RECESSED

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THE INQUIRY RESUMED

DR. DUPRE: May we resume, please.

THE WITNESS: Mr. Chairman, if I may and with the Commission's permission, I would like to address a very brief statement to Mr. Cauchi. I think it may assist him in clarifying a point raised a little earlier.

At that time, Mr. Cauchi, you, it's my understanding, have formulated the opinion that to be eligible for the program one must simply be either AFDE or asbestotic, and I think that you have advised that it is your understanding that there has been no mention of having to be at risk to qualify for the program.

I would like to say most emphatically, and to reassure

5 THE WITNESS: (cont'd.) you that to be at risk has been a very much part of the criteria since day one. The premise of our entire program from 1975 was to remove people from risk. If they weren't at risk, they didn't qualify.

MR. CAUCHI: As I said before, Mr. Chairman, I can't clarify that today but I'm going to try my best to obtain a copy of the first meeting that took place at the Johns-Manville plant between management, union and the team, and see what it says.

10 DR. DUPRE: Thank you, Mr. Cauchi. Can you make that available to us?

MR. CAUCHI: I'm going to try, sir. I'm going to try.

15 MR. CAUCHI: Q. I have a couple more questions. You stated that there is fifteen men that came to you for help when transite pipe shut down? Is that true?

THE WITNESS: A. Fifteen?

Q. Yes.

A. I believe I said nine in my earlier testimony, Mr. Cauchi.

20 Q. I have down that you said fifteen, but the number doesn't really matter very much. What I would like to point out to you is this: Is it true that these men were of no use to management when they shut down the transite pipe operations and that management wrote to you or the Board to try to get them out?

A. No, I...

25 MR. LEDERER: I'm sorry. Before Mr. Pearce answers that question, I'm not sure about the second part. There is a letter involved there, and if Mr. Pearce received a letter, he received it. But the comment was 'of no use to management'. Is that really a question which is fairly put to an employee of the Workmen's Compensation Board? That would be presumably a judgement made by somebody at Johns-Manville and if Mr. Pearce has an answer, that's fine, of course he should give it.

30

MR. LEDERER: (cont'd.) But it seems to me just instinctively, listening to the words, that it can't be an appropriate question to ask of a witness in this position.

Again, the second half of the question, if there is a letter, that's another matter entirely.

DR. DUPRE: Unless, of course, it was communicated to him that this is the case.

MR. LEDERER: Well, fair enough.

DR. DUPRE: Go ahead.

THE WITNESS: A. That's not entirely correct, Mr. Cauchi.

MR. CAUCHI: Q. That's why I asked you.

And the reason I asked you that is because you brought up the seniority problem that if a plant shut down, the junior men goes out first. That's a standard procedure.

But is it true that in the case of the Johns-Manville Corporation the senior men were allowed to go first, providing they are either on rehabilitation or early retirement?

A. To answer your question I would have to say this, that our prime concern was to determine that any worker, irrespective of where he was on the seniority list, did he have eligibility requirements, did he meet those requirements for entry to the program.

If the company offered other incentives which might prove beneficial to him, that was a matter strictly between the man and the employer.

Q. How many men...it says on the Barth report that there is eighteen on the program?

A. As of December 31, 1980.

Q. 1980. Was there anybody included on the program between April and December of 1980?

A. I would have to research that question. I would be very wrong in saying yes or no. I can't recall at the moment.

5 Q. I got a Hansard in front of me here which, in answer to question, the Honorable Dr. Elgie, the then-minister of labour, said, "There is eighteen are with new employers, and there is eighteen on the program".

DR. DUPRE: Could you give us the date of that Hansard, please, Mr. Cauchi?

10 MR. CAUCHI: I made it available already to the Commission.

DR. DUPRE: You did?

MR. CAUCHI: Yes, sir.

DR. DUPRE: Counsel, do we have that?

Okay. Can you just tell me the date, counsel?

MR. LASKIN: I don't have it with me.

15 MR. CAUCHI: There are some more questions in it that I would like to question on.

MR. LASKIN: Tuesday, April 22, 1980, number twenty-seven.

MR. CAUCHI: I believe I have two copies of that, John. Tuesday, what? April 22nd? Yes, here's a copy.

20 DR. DUPRE: That's April 22nd, 1980.

MR. LASKIN: Thank you, Mr. Cauchi.

DR. DUPRE: And the minister, in answering that question, said there were eighteen persons on the program, is that right?

25 MR. CAUCHI: That are with new employers. No one is waiting or has to wait for rehabilitation.

DR. DUPRE: I'm just looking for the figures. You said something about eighteen with new employers. That's not the one that concerns me.

30 Did the minister also say that there were eighteen on the program, in answering the question on April 22nd, 1980?

MR. CAUCHI: No, the minister answered the question

5 MR. CAUCHI: (cont'd.) in three parts - that ten employees were given retraining, ten employees, as of April 22, 1980 - only ten employees; eight were transferred to different employment - that means eighteen altogether.

DR. DUPRE: Okay.

MR. CAUCHI: And all the eighteen are with new employers.

10 DR. DUPRE: That's another eighteen?

MR. CAUCHI: No, the same eighteen. That's what it says in the answer.

15 THE WITNESS: Well I think, if I may say, Mr. Chairman, that what the minister was conveying is that the eighteen there, that they were no longer with the Johns-Manville plant. They had already left the plant and were absorbed into our program.

20 Again, I think as a result of the minister's announcement, I think what Mr. Cauchi is trying to ask me is, when were the people, the nine that I believe I stated earlier, admitted into the program following the minister's announcement. I think this is what he really is saying, to which end I can say that payment to these people did not commence until early 1982, but were made on a retroactive basis to October 12, 1981, and here again it may conclude a passage of time was involved and please bear in mind, as I said earlier, the plant was strikebound, conditions did not get back to normal there until well into the end of August before we got things sorted out and knew what we were doing manpower resource deploymentwise, and then again a further period of time was necessary to enable these chaps to try out newfound employment within the plant and to verify, medically speaking, they were incapable of performing their new duties.

30 MR. CAUCHI: Mr. Chairman, the reason I'll ask these questions and I brought out these figures with me is because I feel

5 MR. CAUCHI: (cont'd.) as a citizen of this province when the minister makes a statement in the legislature he'll have the facts straight, and I assume that he had the facts wrong because on the second part he says,

"No one is waiting for, has had to wait for rehabilitation".

10 Is it true that there was always somebody waiting to be rehabilitated?

THE WITNESS: A. No, that is not true, Mr. Cauchi. All the man had to do was signify his intent and we would get on with the job.

15 Q. And then he automatically get into the program if he was eligible and qualified?

A. Provided he met all the criteria, yes.

Q. And didn't have to wait?

A. Pardon?

Q. And didn't have to wait?

A. No, I can't think of any delay.

20 Q. You say there is thirty-one on the program at the present time?

A. I'm saying that we embraced thirty-one into the program...

Q. Altogether?

A. ...a total of thirty-one out of eighty-three.

25 Q. Altogether, since the inception of the vocational rehabilitation program, there was thirty-one?

A. At Johns-Manville, yes.

Q. That's with Johns-Manville, yes.

From the thirty-one, how many still on the program?

30 A. Twenty-six, I believe I stated. Yes, twenty-six.

DR. DUPRE: Page one, exhibit eight, correct?

THE WITNESS: Yes, sir.

5 MR. CAUCHI: Q. There's twenty-six still on the program? And how many of these twenty-six only been on the program within the last year? Since the Johns-Manville operation ceased to manufacture asbestos? How many were included in the program since Johns-Manville ceased operation in asbestos products?

THE WITNESS: A. I believe there was a total of eleven, if my memory serves me.

10 Q. Eleven? And how long is the longest one that been on rehabilitation?

A. Worker A that we discussed at great length this morning, prior to...

Q. He is the longest one?

A. I would think so.

15 Q. And that's when, 1976?

A. Yes.

Q. Was there any one of these, besides the one that was retained by Durham College after graduating from Durham College in a trade, was there any other than that one that was found employment by the WCB?

20 A. I don't quite understand your question, 'that was found employment by the WCB'. We worked and my role as an accredited rehabilitation worker is to work with the injured worker, to assist him where possible. I don't find jobs for people. I endeavor to motivate people to assist themselves.

25 DR. DUPRE: Just to follow up on that, Mr. Pearce, if I might, I can take it from exhibit eight, the first page, that there are eleven on the program who have come to be employed...

THE WITNESS: Yes, sir.

DR. DUPRE: ...and they are still on the program because they are getting the compensation for reduced wages?

30 THE WITNESS: They haven't reached a level of earning power comparable to the rate they vacated.

DR. DUPRE: Right. How did these individuals find those jobs?

5 THE WITNESS: In some instances they would approach me and say...well, let me take it this way. We try to encourage any worker to work diligently at his own creative job search. Now, I recognize that the state of economy the way it is today that sometimes that's almost an inhuman task, so in assisting in charting out things I would say, invariably, to the worker, 'you know basically where the action is - talk to the foreman of the local shop and so on, and then I'll pop in and do a followup. But get me some kind of an introduction as to where you feel that you would like to locate in terms of employment, and I will go in from there'.

10
15 In a lot of cases, results were achieved through that approach.

I would then go in and talk to the prospective employer accordingly, and give him assurance that there is no risk involved in him taking on a former Johns-Manville employee, that he would be under a recognized rehabilitation training-on-the-job program, that I would give him a letter specifying that in the event of anything happening here the costs would be borne by section fifty-four.

20 That, I found, was a good sales feature and it certainly served to allay any apprehension on the part of a potential employer because I found in the majority of cases that most employers were...would say to me quite openly, well, tell me why I should take on another company's problems. I'm concerned about my own assessment rate, what is that going to do to me.

25 So basically, this was part and parcel of the assistance that we render there.

30 But in response to Mr. Cauchi's question, what I was trying to say is that we do, to the utmost of our ability, try

THE WITNESS: (cont'd.) to instil motivation in any injured worker, whether it be through industrial disease or industrial accident, to do things for himself, and some have a very pronounced objective they wish to pursue and others will come in almost a lethargic manner and say, 'well, I'll do anything, just find me a job'.

So this all involves the counselling process.

DR. DUPRE: This gives me an opportunity for one more question that concerns me, and I think you may just be able to help us because of the experiences you have had at your end of things.

Mr. Pearce, I want to tell you that in both our informal and formal hearings, on and on, we have run into the theme, from time to time, that it is very difficult for former asbestos-exposed employees to get jobs because other employers simply are afraid to take them on.

Now, I take it, of course, from what you were telling me a moment ago that a part of your function has been to explain to an employer, look, given the manner in which the WCB system works and given a situation where any compensation costs that relate to asbestos are going to be charged back to the last asbestos employer, you don't have to worry, and you try to allay their fears that way.

But can I just ask you the extent to which you have found that those fears are deepseated, because amongst some of the allegations that have been made to us, apparently...and these are just allegations...but apparently you can talk to some employers until you are blue in the face and tell them that the WCB system works in such a way, but they are not going to get stuck with anything, and yet there is still an apprehension there that is such that it gives a former asbestos worker an almost permanent kind of labor market disability. Is there anything to that?

DR. DUPRE: (cont'd.) Are some of these employers so up tight that it's a major problem?

5 THE WITNESS: By and large, assessment costs are always foremost in any new employer's mind, and that of course is one barrier that we have to overcome. As I say, we do a very strong sales pitch in respect to the second injury fund, whereby as I say, relief can be given that employer, and I will promise them assuredly and grant them in letter form, and place a memo on the
10 claim file asserting that...at least drawing attention to the fact that such a letter has been given and that consideration must be given for relief accordingly, and any charges that could emanate from the aggravation of a pre-existing condition or a new accident, for that matter, during the course of training on the job, those costs would be chargeable directly to section fifty-four.

15 Now, I have had some success. Not in every case, that's true, and I would be wrong to say otherwise. But I have what I conclude is some marvellous success in taking that approach, and well, Durham College, for example, didn't even...I volunteered that and they said 'we are not going to be concerned about that,
20 we judge this man on his track record here at the school and he has established and earned the right to be considered as any other employee'.

DR. DUPRE: Can I ask you this, since you counsel these individuals from time to time: Has the following situation ever occurred - namely that after a particular job search proves
25 to be unsuccessful an individual basically will be saying to you look, you know, you tried and I tried and I know you tried to explain it to them, but then and all, you know, I still feel I never had a chance to get that job because the moment that employer found out I was at J-M, I knew I was cooked.

30 Have you run into that attitude from some of the individuals you counsel?

THE WITNESS: Yes, I have.

5 DR. DUPRE: Because we have run into the same thing here at these hearings and it's of interest to me to have that on the record. We are looking at a problem there.

10 THE WITNESS: Mr. Chairman, I might add that that becomes a common occurrence from the workers that I interview, and that is a major concern to them. In order to combat that, as I tried to say, I would invariably say to them, well, if you can give me some evidence, please do. I want an identity and let me go and talk to that firm or individual concerned and allay his fears in that regard.

15 One chap who is in the category of rehabilitated and gainfully employed, having achieved a level of earning power that he left the plant, I had to take the approach there that way with a new company and the employment manager's assistant, that he would take my request under advisement and conditional, of course, on the fact that I did give him such a letter in writing outlining the commitments that we would undertake, and having produced that, he then contacted me and said, all right, conditional upon what you set out in your letter I will enter into a formal training-on-the-job agreement with you.

20 DR. DUPRE: I want to tell you, Mr. Pearce, that to the extent that there is a problem here, one of the tasks that we have is to consider whether there are any things that might be recommended that government, by legislation or policy or otherwise, might do to reduce these kinds of barriers to re-employment, in that you have been very much at the front line here, are there any things that you have thought of that might make it easier for you to do your job of helping secure employment for such individuals?

25 THE WITNESS: Well, in conforming to that our division has set up and has operational now an employment services branch, and we have employment specialists on the road whose prime job, if

THE WITNESS: (cont'd.) you wish, is to hopefully break down these barriers and educate the employer through dissemination of educational information, break down these barriers as you have outlined, in the hope that this will all lead to a better understanding.

This...and I...

DR. DUPRE: Perhaps they will have some insights that could be useful to us as well.

THE WITNESS: Indeed, sir, and they are covering the province and they have a very, very aggressive program in place at the moment.

DR. DUPRE: Mr. Lederer?

MR. LEDERER: Mr. Chairman, I wonder if I might make a couple of comments in this area, one, I think, by way of a question, Mr. Pearce, and one by way of an observation about something Mr. Neal said yesterday.

In respect of Mr. Neal, as I understand the problem with respect to the new employer, if, using asbestos workers as an example, if a worker goes and seeks employment with another company that doesn't work in that area and therefore doesn't fall within that assessment group, of course, they will never bear the liability.

The other point is that I'm informed...and you may not wish to accept this from me, but we'll try it anyway...I am informed that the employment services section, the section which Mr. Pearce has just referred to as one which goes out to find jobs, has found or does find something in the area of two thousand jobs per year for people.

Now, as I say, you may not want to accept that from me as a fact, but it's...

The other thing is, and perhaps I could put this one as a comment to Mr. Pearce, Mr. Pearce if we could just take ourselves

5 MR. LEDERER: (cont'd.) out of the area of asbestos
workers for a moment...in fact, let's take ourselves out of the
area of industrial disease altogether. If you have an injured
worker and you are counselling him in the course of your employment
with the Workmen's Compensation Board, do you ever have similar
problems in trying to place those people with new employers? Are
employers ever concerned in that circumstance that they may, to
coin a phrase, have to pay the freight for the past injury?

10 THE WITNESS: Very much so. This is a pronounced
problem and I would be very wrong in denying that it does not exist.
It's very real.

15 MR. LEDERER: My point being, Mr. Chairman, that as
I understand it it is not something which is unique to asbestos
workers and I wouldn't want this Commission to understand it to be
in that way.

20 DR. DUPRE: Well, you see, I fully understand, Mr.
Lederer, that we are dealing here with a problem of employer
ignorance. The problem with that kind of ignorance, however, is
that it may mask two different things. Of course, with a totally
ignorant employer it doesn't matter if there is a difference,
but quite obviously there is a difference between the kind of
apprehension an employer might have if he is going to hire someone
with an amputated finger who he knows is not going to progressively
lose the rest of his fingers, whereas of course on the other hand if
he hired an AFDE individual, for instance, well of course there is
25 a progression possible there, to the asbestotic level.

30 MR. LEDERER: Well, Mr. Chairman, again at the risk
of perhaps going beyond my role as counsel, what you say about the
amputated finger may be true, but I think if we were to progress
with this we would find that there are any number of injuries which
can be progressive.

I am informed, for example, that a very large number

5 MR. LEDERER: (cont'd.) of the injuries which the Board deals with are back injuries. Well, clearly that can be progressive.

DR. DUPRE: Yes.

MR. LEDERER: Broken limbs, as I understand, may later...and Dr. Mustard would know this a lot better than I do...may later become arthritic. That may be progressive in the same way, so that I presume...

10 DR. MUSTARD: I do have to interject.

MR. LEDERER: I'm sorry, sir.

15 DR. MUSTARD: There is a sizeable difference between being labelled with a progressive disease that shortens one's life versus other problems, both in the behaviour of the plants and the people in employment, which I did think is a distinction which we do have to respect.

20 MR. LEDERER: Oh, I'm not suggesting that it's the same, by any means. I'm simply saying that the problem, as Mr. Pearce has said, may very well come up in the case of an injury because there is a kind of progression there. That's all. I'm not trying to make them the same in any way.

DR. DUPRE: Mr. Cauchi, go ahead.

25 MR. CAUCHI: Yes. For your information and for the record, the Workmen's Compensation Board, the employment specialist goes and visits people that are on rehabilitation, not the ones that are on our program - back injuries and you name it.

30 I happened to talk to some of these people and see them visiting some of my friends. These employment specialists, they carry with them a document, computerized, of available jobs. But, I never seen one yet that have an available job for the government. It's all with industry and other people, but not a government job, and I seen list after list. I got to see a list tomorrow about five hundred, and there's not going to be a government

5 MR. CAUCHI: (cont'd.) job in it, and to prove the fact, three years ago when Mr. Starr was the chairman of the Board, he took a study of how many people, how many disabled people worked for the Ontario government. It's less than one percent, and I'm sure that the Workmen's Compensation people could have forwarded their report to you, Mr. Chairman, or to the Commission.

10 Less than one percent of the disabled in Ontario is hired by the Ontario government, yet, Mr. Chairman, the same computer that is being used by the Compensation Board to find jobs for disabled workers with industry and so on and so on, but not for government, there is a computer that lists all the government jobs, lists every government job, and that computer data goes to every member of parliament of the Ontario Legislature.

15 I hope you know what I mean.

DR. DUPRE: Well, we'll be looking at that, Mr. Cauchi.

20 THE WITNESS: Mr. Chairman, if I could just comment on that, we have in the employment services branch a liaison person with the Ontario government through the Ministry of Labour, and that person is indeed given a printout of every job vacancy that comes up within the Ontario public service, and we are invited to peruse those documents and if in our opinion we feel that we have a candidate on our active caseloads that would meet the requirements, then certainly that person is referred for an employment interview.

25 In fairness again to the Ontario government and the Ministry of Labour, I myself have had ongoing discussions with the liaison person and they are very concerned on the very topic that you raised a few moments ago, with particular reference to employer education, and again, I have firsthand knowledge of how active they are in that field.

30 MR. CAUCHI: Mr. Chairman, I might add that they are frustrated, like Mr. Pearce is saying, that there is no

5 MR. CAUCHI: (cont'd.) government jobs. I talked to them pretty well every week, and I got to meet another man tomorrow on the same job, but you won't see on his list any government available jobs. He'll give you a window washer, a truck driver, you name it, but not a government job.

It's not listed in the computer that is available to the employment specialist from the Compensation Board.

10 To go further to what you suggested, Mr. Chairman, with regards to asbestosis people, and to the difference between an asbestotic and the short finger, in industry as long as I can recall, in industry they have their own meeting and their own union, but when it comes to taking another company's sick employee, they never go for that.

15 Why would a company hire me after...this is what has been told to many of my people and it was brought up with Mr. Pearce...I think that somebody must have showed them a file, correct...full of applications, government and industry, a file about five inches thick, of applications, with some of them not even a response, not thank you that you have the courage to apply for such
20 a job.

But when they find out that you worked for Johns-Manville twenty-five years, how come you are not still working there then? Why would the company have kicked you out?

25 Because I am on rehabilitation. Because I am retired on disability pension.

So why would another company hire me and the rest of my people? That's the reasons. You people are all aware of that anyway, I didn't have to tell you that, but it's a fact.

30 I could show you applications after applications about...five or six folders...where there is government and industry, for six years. Nobody ever told me 'come on over, we'll have a look at you'. They didn't even look at me.

MR. CAUCHI: (cont'd.) I live about twelve feet away from General Motors, advertising for sixteen dollars an hour.

5 My job was a millwright group leader. They are advertising today and tomorrow for millwrights, but they wouldn't take Eddie Cauchi because Eddie Cauchi had twenty-four years at Johns-Manville and is not capable of doing the same job for eight hours as another healthy person. They want somebody to do the job for eight hours, a forty hour week, and they could get it today.

10 I would like to ask Mr. Pearce a question, if I may.

What happened to these men that are at Durham College, after they finish their program? What next for them?

15 THE WITNESS: A. Well, certainly our ultimate goal is to see that they are employed on a full-time basis in the field for which they have received the benefit of training.

Q. And if not?

A. Well, we'll keep on trying and benefits will continue to be paid until such time as we achieve our objective.

20 We are certainly not, Mr. Cauchi, to drop anyone simply because he has been trained and the labour market for any number of reasons is unable to absorb him. We will continue to honor our obligation. I can assure you on that point.

Q. How many of these men that are being retrained at Durham College entered the program within the last three months?

A. Within the last three months?

25 Q. Yes. Or two months?

A. None.

Q. There's six or seven men that been at Durham College more than a year?

A. They could have. They could have been, yes.

Q. They could have been?

30 A. Yes.

Q. But it could have been less than a year for some

Q. (cont'd.) of them? Less than six months?

A. No, I don't have anybody at Durham College who
5 has been there less than six months, at the present time.

Q. I would like you to check your figures again, to
make sure.

DR. DUPRE: Whether or not there is somebody who has
been there for a short period of time, Mr. Cauchi, what's the
relevance?

10 MR. CAUCHI: The relevance, Mr. Chairman, is this:
We go back to the same plant closure - these are senior people
and when the plant ceased operation in the asbestos business, the
company again at that time...it hurt people like me, because I was
one of the few people that took the program, to make it work. It
15 was a government program, I wanted to help them out, I took the
program.

But in later years or in a later time, as you could
see from the brief you got from the J-M Corporation, communications
between management and Mr. Starr, and communications between
management and Mr. Wiskoski....who was head of the rehabilitation
20 division at the time, stated that these people, if they take the
program...and it's never been said yet...if they go on the program
they would retain their OHIP, their drug plan, their pensions and
everything else. It's stated in the brief from Johns-Manville to
you people.

25 But for the first people, and you wonder why there
is only eight or eighteen that started within two or three years,
you wonder why...the first people, such as the one, Mr. A., the
first people, there is eight, I believe, or ten of us that took
the program were left without OHIP, were left without drug plan,
without any pension, without...this is, I'm talking company pension...
30 without insurance, life insurance. Yet the people that are leaving
within the last three or four years since the vice-president at

5 MR. CAUCHI: (cont'd.) the time sent the letter to Mr. Starr, they are on early retirement from the company, their pension is paid for, OHIP, drug plan. Yet the first eight people or ten people, they are out altogether.

10 Johns-Manville doesn't know them until...if they make it to sixty-five. If you make it to sixty-five, it's the Ontario law that ten years pension carryover, so you are entitled for some benefits. But if these people don't make it to sixty-five, they are out of luck. They have to pay their own drugs, their own OHIP, their own life insurance.

15 I thought I would mention this because you wonder why people rejected it outright. Sure, when you are called up and you have a family and you say, Mr. so-and-so, we want you to come on the program but don't forget you are going to lose your pension, you are going to lose your OHIP, your drug plan, and you got a wife and kids to support and a house to pay - you wonder why you are going to reject the program.

20 THE WITNESS: Mr. Chairman, in response to Mr. Cauchi's statement I can go on record as saying that Mr. Lobare, (ph) who he refers to, was a former president of the Johns-Manville Canada Incorporated, I think holding office as president and general manager, approached us in December of 1979, expressing concern for asbestotics who were still in the program...who, I'm sorry, who were still employed in the plant and who didn't qualify for admission to the program at that time because they were not at risk.

30 His concern surrounded the fact that if these people required rehabilitation assistance, would we be prepared to assist them. Our response to Mr. Lobare's question was, if it could be shown that they were indeed asbestotic and in receipt of a pension for their compensable disability they would be eligible for rehabilitation service under what we term our regular rehabilitation.

DR. DUPRE: So that if they were asbestotic, but not if they were AFDE?

5 THE WITNESS: Yes, that's right.

DR. DUPRE: I see.

DR. UFFEN: And not as risk.

THE WITNESS: And not as risk. That we would render those services.

10 At that time, and I was part, with Mr. Wisocki, our former director, our executive director, I was very much a part of these ongoing consultations with the Manville executive, and we discussed all aspects of the package fringe benefit program to be extended for any of these people who wished to participate in rehabilitation programs, and the company did in fact agree to continue these benefits to any person who desired to come on.

15 Of the nine people who came on as a result of the ministerial announcement, yes, all benefits are continued. And over and above that we asked Johns-Manville, even though training had been completed and they had commenced work, would they continue paying for these benefits until these people had, to coin our phrase, rehabilitated - meaning that they had actually reached a level of earning power where they came abreast of the earning power they had vacated at the plant, and again the company agreed to this, and this is, in fact, in position right now and is being done.

20 DR. DUPRE: But now, these individuals are not a part of the SRAP?

25 MR. CAUCHI: Sure they are.

THE WITNESS: No, the nine that came on as a result of the minister's statement in the House, also benefits are being continued for that group as well.

30 DR. DUPRE: I'm sorry. I'm going to get...now I'm becoming very thick because the nine that you have just referred to with respect to the minister's announcement, I have found in

DR. DUPRE: (cont'd.) our exhibit eight, I believe...
right...

THE WITNESS: Is it eight or nine?

DR. DUPRE: If we are looking at the third page, which is December 31, 1979, it is pointed out on the righthand side that thirty-two qualified; by August 10, 1982, the number thirty-two has been changed to forty-one that qualify.

THE WITNESS: That's the nine.

DR. DUPRE: Those are the nine and from now on, just to make sure I'm keeping things straight, I'm going to refer to those as the ministerial nine.

THE WITNESS: Yes, sir.

DR. DUPRE: Now, we have another group of employees, I take it, from what you were talking about to Mr. Cauchi, who are this different group that is made up only of individuals who are asbestotic, correct? No AFDE in there?

THE WITNESS: That's correct.

DR. DUPRE: And that group is how many people?

THE WITNESS: They are...

DR. DUPRE: Well, for the moment the precise number may not be all that important, but what I'm after is this: that number, whatever it is, is not a number that I'm going to find among the numbers included in exhibit eight, is it?

THE WITNESS: No. This number that I'm referring to where the Johns-Mansville executive were expressing major concern were defined ultimately as a group of nineteen asbestotics.

DR. DUPRE: And now at this point, to go back to the question I asked, this number - which may be nineteen, but the precise number doesn't...this number, if it does not form part of any of the numbers in exhibit eight, refers to a group of individuals who are receiving rehabilitation assistance with full

5 DR. DUPRE: (cont'd.) fringe benefits and so on, but who were not part of the special rehabilitation assistance program, is that correct?

10 THE WITNESS: No. What I'm saying, Mr. Chairman, is that the nine...the company made a firm offer to the nineteen asbestotics who did not qualify for admission to the program, that provided they wished to participate in a rehabilitation program under our auspices, they would in fact then continue payment of the fringe benefit package deal to that group.

DR. UFFEN: Did anybody accept that invitation or that offer?

THE WITNESS: No.

15 DR. DUPRE: The impression I got from Mr. Cauchi was that they had all accepted, because once they had the fringe benefits continued...

MR. CAUCHI: That's right.

DR. DUPRE: Well, then, we have, I guess we'll just have to...

20 THE WITNESS: No, we had none accepted in that group.

DR. UFFEN: This is something that we have to clarify, whether there were some, none or not, because it would appear then that there were people who received assistance who didn't meet the two criteria that we started talking about at the beginning of the hearing today. If there are none, that's one thing.

25 THE WITNESS: I think some of the difficulty, Dr. Uffen, is, with all fairness to Mr. Cauchi, he, by his own statement has not been an active employee of the company and this could possibly be a misconception.

I say that with due respect to Mr. Cauchi, of course.

30 MR. CAUCHI: I just read the records that the Commission got from the Johns-Manville submission, where there is a letter by Mr. Lobare to Mr. Starr, and a letter by Mr. Lobare to

MR. CAUCHI: (cont'd.) Mr. Wisnoski, and if I'm wrong, well, he is wrong. I mean, the people that gave the submission to the Commission

I'm only repeating what I saw.

DR. DUPRE: We'll check out our own submission, Mr. Cauchi.

THE WITNESS: Those discussions went on with the company...

MR. CAUCHI: I wish I have it with me, because I believe that I asked for the specific letters... I do have them at home, I know...and I asked for them, two specific letters, and I believe I got copies of them - of the letter by Mr. Lobare to the chairman of the board at the time, the Honorable Michael Starr, and another letter to Mr. Wisnoski, and it is a fact, you just stated, that the company is still carrying on the payment of OHIP and pension and drug plan and everything for the people that came out last.

THE WITNESS: Yes, that's true.

MR. CAUCHI: That's all I'm saying, that the people that came out the first lot, they don't.

THE WITNESS: They do not. I agree with you there.

MR. CAUCHI: That's all I'm saying, Bill.

THE WITNESS: Well, I agree with you there.

MR. CAUCHI: I'm saying that the first interviews and the second and the third interviews, when these eighty-three people were eligible, and how many rejections - the number doesn't really matter - but I know there was a lot of rejections, and it was raised in the Legislature, and you name it. But it was never said that once you are out of there, there is...you are on your own, except the rehabilitation money. You've got to pay your OHIP, your drug plan, your pension, your insurance. Everything stops.

Johns-Manville stopped everything the minute I walked

MR. CAUCHI: (cont'd.) out.

5 Now, I want to ask you, Mr. Chairman, I would like to ask him a question. This is a personal question.

MR. CAUCHI: Q. I notice in your report in here, exhibit seven, there is a discharge. Are you referring to my discharge in that number one? Does that mean me? Yes or no?

10 THE WITNESS: I would like to take that question under advisement, Mr. Chairman.

Q. I would like you to answer that question for me, please.

15 MR. LEDERER: Well, Mr. Chairman, with all due respect to everybody, this is very quickly degenerating into an argument between Mr. Cauchi, who is making an awful lot of statements of fact without being sworn and without being subject to cross-examination, and by Mr. Pearce, and as I say, with all due respect to everybody I'm not sure it assists this board to have that kind of information generated.

20 So far as Mr. Cauchi's last question is concerned, Mr. Pearce has indicated he doesn't have the answer right now and he can't provide the answer at this point.

So far as the letters concerning benefits are concerned, I understand from Mr. Patterson that in fact letters of that type do go out. He is not able to inform me as to whether or not people have accepted that offer or not.

25 If there is any uncertainty about it, it's, of course, open to the Commission to look, as Mr. Cauchi has suggested, at the Johns-Manville submission, and Mr. Pearce certainly can go back and double-check the Workmen's Compensation Board records.

30 DR. DUPRE: I think we've gone into this more than far enough in terms of what is useful to this Commission. I don't see any use to this Commission in continuing this particular line, Mr. Cauchi. So do you have any further questions?

5 MR. CAUCHI: I did ask him the question...we asked him about the twelve that still remain in the employ of the company, we asked him about the eleven that took disability or early retirement. I think I have the right to ask the dismissed by the company number - one.

10 DR. DUPRE: But I will note, Mr. Cauchi, that you did not ask him the names of any of the twelve or fourteen or the eleven...

MR. CAUCHI: I would volunteer to offer my name. It's eight me or not me. That's all. He don't have to mention any names. It's either referring, that number one, to Eddie Cauchi or not.

15 MR. LEDERER: Well, with all due respect...

MR. CAUCHI: I'm not asking for names, other names, Mr. Chairman. I'm not asking for anybody's name, and the reason I would like to ask that, Mr. Chairman, and I come to the point, right to the point on that, because as soon as the program started, and I was the instigator of that program, and the minister happened to agree with me at that time that there should be a program, the company fired me a week later.

20 That's after I already signed to go on the program. But taking it to arbitration, I won my case, and I would like to leave you, if there was any doubt, a letter by the employee relations manager of the Johns-Manville Corporation that Ed Cauchi was an employee of the Johns-Manville Company Limited from June 8, 1953 to date, and his resignation for health reasons on September 29, 1976. John.

25 MR. LASKIN: Thank you.

MR. CAUCHI: Now, I got that letter from the management. At the same time, I received a letter by Mr. Pearce that he is cutting off my payment because I was not on the program.

MR. CAUCHI: (cont'd.) I wasn't on the program because they fired me. Am I correct, Mr. Pearce, or not?

MR. LEDERER: Well, just a minute...

MR. CAUCHI: I got the letter here.

MR. LEDERER: Just a minute, I'm sorry.

Mr. Chairman, with respect to the initial question which is 'am I or am I not the one shown as being dismissed', with all due respect, I don't understand how it can help this Commission to know that. The only person it can help or not help is Mr. Cauchi, and with all due respect to him that's really not the reason we are here and I don't think it's of assistance to make an example of his case. I don't think it does any service to this kind of proceeding, and with all due respect I would ask that we not be required to provide that information.

MR. CAUCHI: Mr. Chairman, I would like to say something before you start.

It must be of importance to the Workmen's Compensation Board because they include it in exhibit seven. If it was not included in exhibit seven, I would have let it die. But it is included and the compensation people saw fit to put dismissed by the company - one, and that's how they arrived to their figures.

Therefore, I would like to have an answer, sir.

DR. DUPRE: Thank you, Mr. Cauchi. I want to confer with my two colleagues for a moment, please.

(REPORTER'S NOTE: At this time the Commissioners conferred among themselves.)

DR. DUPRE: All right, Mr. Cauchi, I'm going to rule that as far as this Commission is concerned it is of no interest to the Commission to find out the identity of that one individual.

On the other hand, the Commission does find that the following point, which is very closely associated, Mr. Cauchi,

DR. DUPRE: (cont'd.) with what you have raised - if I may have your attention, please...

MR. CAUCHI: Sure.

DR. DUPRE: ...that the following question is very much in order and I will pose it to Mr. Pearce, if I may.

Mr. Pearce, to your recollection was an individual who was on the rehabilitation program ever dropped from the rehabilitation program because you had learned that that individual had been dismissed by Johns-Manville?

THE WITNESS: No, sir.

DR. DUPRE: Thank you.

MR. CAUCHI: Fine. I'm satisfied with the answer.

Now, I would like to present a copy of a letter exchanged between Mr. Pearce and myself, and then you could judge for yourself why Mr. Cauchi was cut off.

May I carry on with a couple more questions, sir?

DR. DUPRE: Okay. Can you...do you think...

MR. CAUCHI: I'm going to make it brief. We'll be out before one o'clock, sir.

DR. DUPRE: By one o'clock?

MR. CAUCHI: Sure. I want to be out as much...

DR. DUPRE: Because there are some other questions the commissioners wanted to ask.

MR. CAUCHI: Okay. It's going to be very brief.

Is there any...it's a yes or no question...is there any ex-J-M workers, at the present time, that are still eligible to join the program?

THE WITNESS: A. Are there any...?

Q. Workers at the plant right now, or outside the plant that's been laid off, that are eligible to join the program?

A. The three workers that were just admitted to the program, that account for the addition from eighty to eighty-three,

5 A. (cont'd.) who suddenly from out of the blue, you might say, became asbestotic, okay? If it can be shown that medically they are incapable of carrying on their duties assigned to them at the present time, in keeping with the ministerial directive, we would certainly consider them for admission to the program.

10 Q. Is anybody that worked with E and R, which was one of the three reasons, one of the three guidelines, to join the program, did anybody from E and R request to be included in the program? Is E and R still part of the guidelines?

A. Are you speaking in reference to being at risk...

Q. Yes.

15 A. ...or are you speaking in terms of the ministerial...

Q. E and R.

A. Pardon?

Q. It's stated that transite pipe, if you are at risk, or E and R at risk, you will be eligible, you qualify.

A. Yes.

Q. Correct?

20 A. Yes.

Q. Unless you are from E and R or transite pipe and at risk, you are not qualified?

A. That's right.

25 Q. Now, are people that came out of E and R...came out of E and R...and have or are suffering from asbestos dust effects, are they eligible to join the program?

A. If they were assigned new duties and it can be established medically they're incapable of carrying out their new duties, yes...

Q. And if they are laid off?

30 A. ...that's in keeping with the ministerial agreement.

Q. And if they are laid off?

A. What do you mean if they were laid off?

5 Q. If they are not working at the plant anymore, through the cutbacks.

A. In a situation like that, we would ask the worker concerned if it came to our attention that he had an interest or a preference of coming to the program, we would ask him then to, for the sake of the record, to put it in writing, a request to be admitted, and to state, if he were interviewed at a much earlier date, why now at this particular time, and then we would take... certainly that would be reviewed by our team.

10 MR. CAUCHI: Mr. Chairman, for the information of the Commission, we got a letter from the chairman of the Board, the Honorable Lincoln Alexander, stating that E and R personnel are not eligible anymore to join the program, because one of the people that has been laid off after he was interviewed some time ago that he was eligible, and he couldn't get no place, he wrote a letter to the chairman of the Board and the letter back to him stated that E and R personnel are not eligible anymore.

15 THE WITNESS: Well, I know of no such letter. I'm afraid I can't respond to that.

MR. CAUCHI: Well, we have that letter. It didn't come to you, Mr. Pearce. It comes to the member that sought the assistance of the chairman of the Board.

20 THE WITNESS: I make that observation, Mr. Cauchi, because I co-ordinate the activity at Johns-Manville and I can say unequivocally that every case comes over my desk, whether it comes from the chairman or not it comes down to my desk.

25 DR. DUPRE: Well, Mr. Cauchi, if there is such a letter the Commission finds that that will be relevant to it, and therefore I would ask you, please, to give it to us.

30 MR. CAUCHI: Sure, sure.

DR. MUSTARD: Can I also make certain that, Mr. Stewart (sic), you are unaware of that letter? Is that correct?

DR. DUPRE: Mr. Pearce.

DR. MUSTARD: You are unaware of that letter?

THE WITNESS: That's correct. doctor.

MR. CAUCHI: That's it.

DR. DUPRE: Okay. Thank you, Mr. Cauchi.

Mr. Lederer, do you have any questions?

MR. LEDERER: No, I don't have any questions. I wonder if I might just make a further point with Dr. Mustard concerning our discussion about progressive injury? There's one point that has been made with me in the interim, and I just raise it quickly.

In the case of somebody who has a...as has been explained to me, the problem may be somewhat different with a person who has a back injury in that it will be different from the asbestotic who works at a plant later where there is no asbestosis because it will always be difficult, or at least will be perceived by the future employer as being difficult, to assess whether or not the future occurrence is attributable to the work which he is then undertaking for them, or the work which he has undertaken in the past, which may have caused the original problem, and that for that reason, so the theory would go, it might be more difficult for a person to find employment.

(REPORTER'S NOTE: Dr. Mustard's short response was inaudible.)

MR. LEDERER: I'm sorry, Mr. Chairman, thank you.

DR. DUPRE: That's quite all right.

Dr. Uffen?

DR. UFFEN: Mr. Pearce, I would like to change the topic considerably and we are fundamentally interested in why a

DR. UFFEN: (cont'd.) program of this type would
succeed one place and not be successful somewhere else, and so on.
This is the nature of my question.

I understand you had some prior experience at
Elliott Lake?

THE WITNESS: Yes, sir.

DR. UFFEN: So I wanted to ask you a few questions
about Elliott Lake, and to start it off I will ask some of mine,
but I invite you to give me your advice later on.

I'm interested in the concept of risk areas that we
have been discussing here with respect to the plant, the J-M plant.
Are there similar risk areas defined for the Elliott Lake mines?

THE WITNESS: Yes, indeed. The entire underground
areas where a miner was exposed to radiation or silica dust.

DR. UFFEN: The whole of the underground area?

THE WITNESS: Yes.

DR. UFFEN: There were no exceptions, like shaft
workers...

THE WITNESS: No.

DR. UFFEN: ...or anything like that?

THE WITNESS: No.

DR. UFFEN: Oh, now that's an interesting point.

You have just mentioned that there were two sources
of possible illness - the silicosis, or the silica dust, and the
radiation.

THE WITNESS: Yes.

DR. UFFEN: Presumably...was it radon gas or other
kinds of radiation?

THE WITNESS: Yes.

DR. UFFEN: Is there any importance to the fact
that there were two medical risks in a symbiosis at Elliott Lake?

THE WITNESS: For Elliott Lake, yes.

DR. UFFEN: So it's double or more than double the nature of the problem.

5 THE WITNESS: Are you referring to the fact that they are exposed to radiation?

DR. UFFEN: Yes, I, you know...

THE WITNESS: Silica dust and silicosis?

10 DR. UFFEN: ...if you are exposed to silica dust, that's one reason. If you are also simultaneously exposed to radiation and the possibility of cancer, that's a double jeopardy. But the symbiosis of it may make the problem more than just two plus two times or four times as bad. It may make it many times as bad.

15 THE WITNESS: Well, our experience at Elliott Lake, of course, was that the number that came to the surface under our program, I would say the number who had attained the maximum hundred and twenty working level months of radiation exposure far exceeded the silicotics or those who were exposed to silica dust, and I found in a comparison there...and I often use this point with myself in terms of trying to come out with some sort of solution here, because at Johns-Manville we were just dealing primarily with asbestosis and asbestos fiber dust, and the big difference that we noted, of course, at Elliott Lake was that once you bring a man to the surface there was many, many other jobs on the surface, at which both mines worked very closely with us, and through this process, of course, we did achieve a good rate of success there.

25 Unfortunately, this could not be at Johns-Manville because basically the concept with the plant here in Toronto was all areas must, in some way or other, be at risk. How can you take transite pipe and E and R division and say that they are risk areas, and talk then about the garage, shipping, fiber glass, thermo-twelve as being out of risk.

30 This, of course, contributed to a lot of problems.

5 DR. UFFEN: At Elliott Lake, when they bring the ore up from the mine, when they go through the crushers and then some of the milling and so on, were there any areas on the surface that were considered at risk?

10 THE WITNESS: No, we...in speaking of the crusher and the mill...we tried, where humanly possible...well, we did, as a matter of fact, refrain from placement in there. In fact, we took people who were exposed and had high silica dust exposure out of there and placed on the program.

DR. UFFEN: In other words, did you take some areas owned by the mining company, that were not underground, and recognize them as risk areas eligible for...making them eligible, provided they had the other...

15 THE WITNESS: Only in the mill. I mean, a lot of...

DR. UFFEN: In the mill?

THE WITNESS: Yes. A lot of the crushing and grinding, you know, is still done underground.

DR. UFFEN: That's all right...

20 THE WITNESS: The refining part was all on the surface.

25 DR. UFFEN: Was there any recognition, at the time or since, that moving the men from the areas of exposure to silica dust and radiation was advantageous in that removal gave them some hope of recovery from their illness? Not just further deterioration, but that they knew that if they got away from exposure that they had some hope of recovery from the illness?

30 THE WITNESS: It had a pronounced effect on the work force at large, and I noted this as well at Johns-Manville plant. The workers concerned would express voluntarily, having been removed from risk, that they did indeed feel much better. Their entire outlook was much improved. They were relieved of anxieties, apprehension, if you wish.

DR. UFFEN: Now, that's part of my concern. That's a perception on the part of the men.

5 THE WITNESS: Mmm-hmm.

DR. UFFEN: But within the WCB was there recognition by the medical people or other people concerned with the fact that there is medical evidence that you can recover from the illnesses silicosis and radiation, but not similar evidence in asbestos cases?

10 THE WITNESS: We, to answer that question properly, discussions have taken place of that, but bear in mind because of the latency periods involved, I suppose it can be said that through passage of time only then would that determine what amount of success could be achieved. I think that's the best way I can answer your question.

15 I know of a case...I know of two cases right now at Johns-Manville, for example, where they moved from ten percent to twenty percent prior to being removed, and now to all intents and purposes the disease is arrested, and I, you know, pray it continues so.

20 DR. UFFEN: One more slightly different kind of question, but about the rehabilitation program.

Could you give me at this time just a rough estimate of the number of men who took on-the-job training and the number or the proportion that took more formal training, say in a community college...at Elliott Lake?

25 THE WITNESS: At Elliott Lake?

DR. UFFEN: Was it significantly different?

30 THE WITNESS: Yes, indeed, because we interviewed a total of two hundred and four miners at Elliott Lake, and we accepted just below fifty percent of the total numbers interviewed, into the program. Sault College, out of the Sault, set up a campus at Elliott Lake to deal expressly with academic upgrading or short-term training programs in conjunction with the mine and

5 THE WITNESS: (cont'd.) ourselves, and I sat as a member on that committee there, because what we were looking at there was that we wanted almost carte blanche authority from the mine that once these training measures had been completed that the men would move uninterrupted into full-time gainful employment, and again, both mines co-operated to that extent.

10 DR. UFFEN: One other last question, again slightly different. In the Elliott Lake experience was there any necessity for ministerial statements or anything that sort of changed the terms of reference from the initial?

15 THE WITNESS: Not administerial (sic), Dr. Uffen. We did make two changes there in Elliott Lake, and one was at the specific request of the Steel Workers union. When the program was initially set up we did state in the criteria with particular reference to payment of the work adjustment allowance that that would continue for one year and would be reviewed.

20 Well, the objection raised by the union at Elliott Lake was, well, what do you mean by review, can you not be more positive?

So recommendations, on hearing their version of it, recommendations were put back to the corporate board, and in due course I received authority to remove reference to the one year.

25 The second thing that came about while I was still at Elliott Lake was...and I believe Mr. Cauchi raised this question and indeed it's a very valid point...miners in Elliott Lake were silicotic, some of them said, 'no, I don't want to come to the surface, with my hourly rate, incentive bonus, shift differential and so on, financially it would be suicide for me to come up and accept seventy-five percent of my wages from your program'.

30 So if that man continued in the employ of the company, he was in fact still deriving his pension for silicosis.

THE WITNESS: (cont'd.) So the question arose, well, what happens if he comes on the program.

5 Now, normally we are following the provisions of the Act which states that an injured worker can only be compensated to the tune of a hundred percent benefits...and by a hundred percent benefits I mean seventy-five percent of his wages at the time of injury...so we were looking at this and saying well, in fact we are doing this man an injustice by deducting the value of
10 his pension from the work adjustment allowance that would be paid by rehabilitation, so the corporate board ruled in this particular case, on submissions from, joint submissions from claims, medical and rehabilitation, that we not deduct the pension for the silicotic or the asbestotic, or for that matter any other mineral dust as so identified from time to time that could be a part and
15 parcel of this program.

DR. UFFEN: Is there in existence within the Board any kind of evaluation of the Elliott Lake experience that could be made available to us as a means of assessing or understanding the program?

20 THE WITNESS: In terms of success, if you wish, versus failure, or...?

DR. UFFEN: Yes. Did you do an inhouse evaluation on what worked and what didn't work, etc.? Is there any kind of report?

25 THE WITNESS: Yes, that could be obtained. We could produce figures.

MR. LEDERER: Well...so you don't want us to create new figures if we have a report?

30 DR. UFFEN: No, I just want to know...if there was one in existence, an assessment that we just haven't heard about because we haven't had the sense to ask...that if there is one, I think it would be useful to us to have it.

MR. LEDERER: Dr. Uffen, could I suggest that we don't really know at this moment whether there is such a thing, but if
5 there is, we'll look for it, and if there is one, we'll provide it.

Is that satisfactory?

DR. UFFEN: Yes. All I'm suggesting is, if we don't think to ask and somebody doesn't volunteer it, then that's our tough
10 luck, and if there is something very valuable to us and all that you were doing was waiting for us to ask for it...

MR. LEDERER: Dr. Dyer will do the searches that are necessary and see if we can locate something like that.

DR. UFFEN: Thank you very much.

DR. DUPRE: Thank you, Dr. Uffen.

Counsel, do you have any further questions?

15 EXAMINATION BY MR. LASKIN

Q. I just wonder, along that line, whether in fact there is an internal evaluation that was done at the program at
20 Johns-Manville - other than what appears in your brief. Do you know, Mr. Pearce, whether the Board or your branch in fact prepared any document evaluating the program?

A. Not as yet, because we have labored under the premise, of course, that the program itself is still active, and
25 as I explained, beyond regular discussions with Mr. Ranta and Dr. Dyer and Dr. Stewart, you know, we within ourselves expressed gratification if we know of one or two identities where the disease is arrested - we feel somewhat relieved. But we haven't got right down to the nitty-gritty of totally evaluating the J-M
30 program.

Q. Just one other question that arises out of a question Dr. Uffen asked you - who in fact made the determination
as to the areas at risk, for the Johns-Manville program? Who made
that determination?

5 A. Dr. Stewart sat down with the ministerial people from the air quality branch, with the union and with management at Johns-Manville, and discussed this very topic, and then it is my understanding that of the two meetings that were held out there, I mean, all were in concert with the identification of pipe and E and R as being so designated.

10 Q. Do you know whether that determination was approved by the corporate board or not?

A. I couldn't answer that question. I know Dr. Stewart's responsibility was, of course, to look at the measure of asbestos fibers and so determine.

MR. LASKIN: Thank you, Mr. Pearce.

15 DR. DUPRE: I have no further questions, so may I, sir, thank you very much for being with us today and before, and I now declare that the Commission rises until Tuesday, August 24th... is that correct?

MISS KAHN: Yes.

DR. DUPRE: Thank you. We rise until the 24th of August then.

20 MR. LEDERER: Excuse me, Mr. Chairman. Is that a final date, August 24th? That was just mentioned to me just prior to the break and it hadn't been mentioned to me before as a confirmed date, and it does cause me some problems and I would like to be able to think I could still negotiate that out, perhaps, with Mr. Laskin.

25 DR. DUPRE: As I understand it, we are meeting again on the 24th of August, but that is not necessarily the last day on which we will be holding hearings, is that correct?

MR. LASKIN: My understanding is that that basically is the only day that Professor Barth can accommodate us.

30 MR. LEDERER: Can I just go on record as stating the difficulty that causes me, and as I say, it wasn't really confirmed

MR. LEDERER: (cont'd.) with me until just before we resumed after our last break.

I, myself, anticipate that I will be at a hearing in Woodstock that day and I suspect that Mr. Edwards will not have returned from his vacation. If that is the case, I obviously have a problem.

DR. DUPRE: Okay. That is, of course...I think we are technologically determined by what Mr. Laskin has informed us, and so we will rise until August 24th.

MR. LASKIN: Yes.

THE INQUIRY ADJOURNED

THE FOREGOING WAS PREPARED
FROM THE TAPED RECORDINGS
OF THE INQUIRY PROCEEDINGS

Edwina Macht
EDWINA MACHT

